

Factsheet 66

Resolving problems and making a complaint about NHS care

December 2018

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.

Contact details for any organisation mentioned in this factsheet can be found in the *Useful organisation* section.

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1 Introduction

Most people are happy with their treatment and care when using NHS services but there may be times when things go wrong or you are unhappy, frustrated or angry about an incident or your on-going care.

You can resolve many problems informally by talking to staff concerned soon after an incident happens. If you feel unable to do this or are unhappy with their response, you have a right to make a formal complaint about any aspect of NHS care, treatment or services.

All NHS organisations must have a complaints procedure that tells you who is responsible for handling complaints, how they manage and might investigate a complaint, how they respond following an investigation and what you can do if still dissatisfied.

Staff should tell you about support available if you want to talk through your concerns beforehand, when drawing up your complaint or to support you at a meeting. If you have sight or hearing difficulties, or English is not your first language, ask for a copy of the complaints procedure in a format you can understand. Let staff know if you need a lip reader, British Sign Language or foreign language interpreter or an advocate to attend meetings with you.

2 Who can raise a concern or make a complaint?

You can raise a concern or make a complaint:

- on your own behalf
- 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 pursuing the complaint is not in that person's best interests, it can refuse to do so but must tell you 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 Are there time limits to making a complaint?

There is no time limit if raising a concern informally but the sooner you do this, the more likely it can be resolved satisfactorily or prevented from happening again.

You must make a formal 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.

4 What services can you complain about?

You can raise concerns or complain about services or care provided by:

- your GP practice
- community based NHS staff such as district nurses or specialist nurses
- dentists, optometrists, or pharmacists
- hospital trust, mental health trust, or ambulance services
- an independent hospital if the NHS pays for your care.

If your concern or complaint relates to detention under *Mental Health Act 1983*, see section 8.

4.1 What might your concerns or complaint involve?

They may relate to one or more of the following:

- a specific consultation
- time or route taken to reach a diagnosis
- general care or specific treatment
- attitude of staff
- poor or inadequate communication about your care
- difficulty making appointments or late running appointments.

5 Steps in the complaints process

Step one: Resolving problems informally

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

Before raising a concern, decide what you would like to happen as a result. You may be satisfied with an apology from the person concerned; may want assurance that staff are taking steps to prevent something happening again; may want agreement on a better way to meet your own or relative's needs or information from a doctor who is proving difficult to reach.

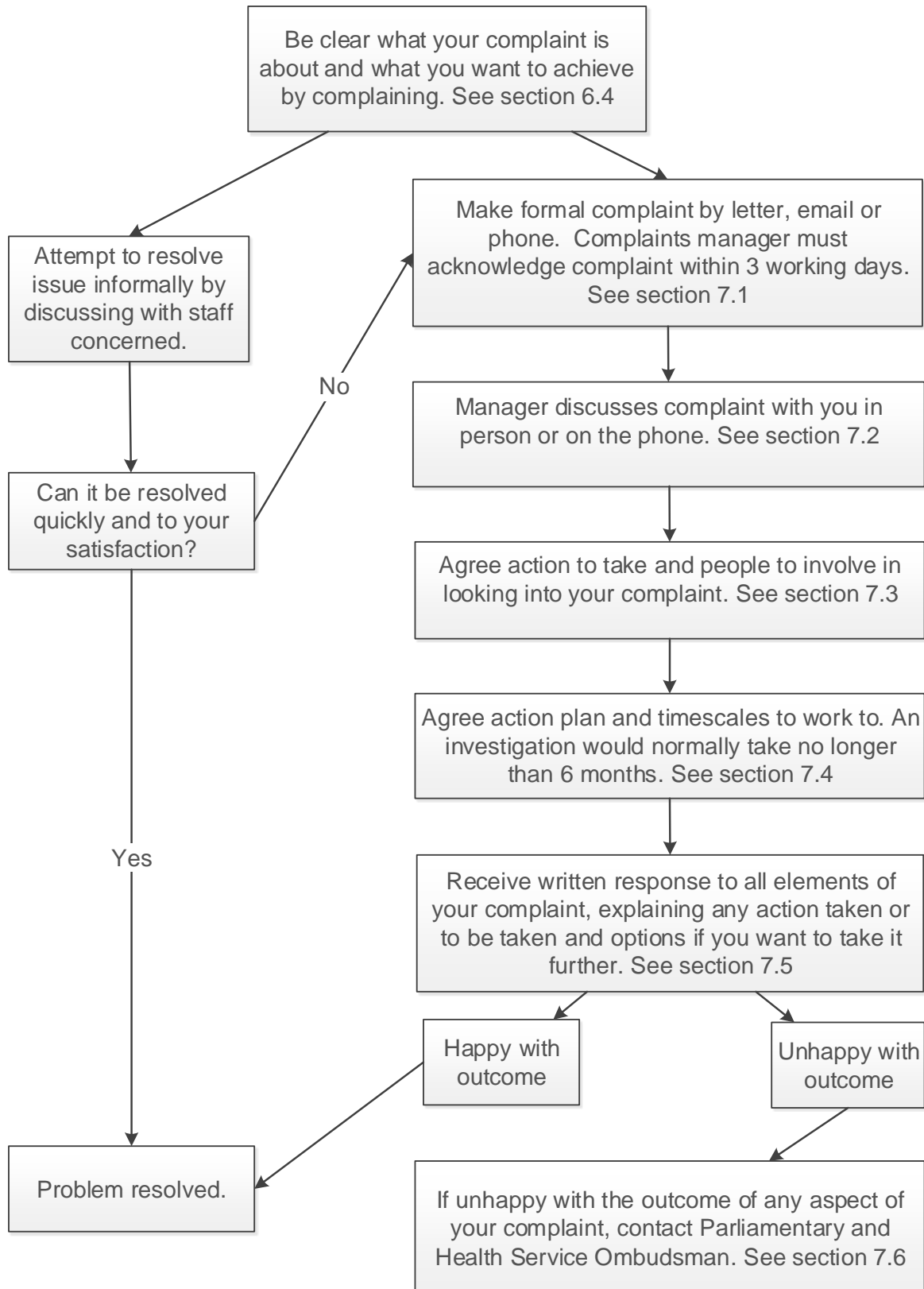
Step two: Making a formal complaint

You may decide 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, or
- the event you want to complain about happened some time ago.

The chart on page 5 shows steps in the process of resolving a complaint.

Resolving problems about NHS care



6 Making a formal complaint

6.1 Who to complain to

Staff should direct you to the appropriate person. Each organisation's website should include information on how to make a complaint.

GP practice - the Practice Manager is usually responsible for handling complaints but you may want to talk to your GP first.

Hospitals, mental health trusts and ambulance services - most have a department to handle formal complaints. Hospitals, mental health trusts and some ambulance services have a Patient Advice and Liaison Service or PALS. They can explain the complaints process and can often intervene on your behalf if you want to try to resolve an issue informally and so prevent it escalating to a formal complaint. As well as lodging your complaint with the complaints department, you can alert the Chief Executive to your issue by sending them a copy of your complaint.

Dental practices, opticians or pharmacies – must have a senior staff member responsible for handling complaints.

If you do not want to complain to the provider of the NHS service

If you feel uncomfortable complaining to the service provider, you can approach the NHS organisation that pays for the service you use – known as the '*commissioner*'.

NHS England for GP services and services provided in the community by dentists, opticians and pharmacists.

Clinical Commissioning Groups (CCGs) for hospital services, ambulance services, GP out-of-hours, NHS 111, mental health services and community services such as district nurses. To find your CCG, go to www.nhs.uk/service-search and search for "*clinical commissioning group*" with your postcode.

6.2 Complaints involving more than one organisation

If your complaint involves more than one organisation, they have a duty to co-operate. This means the organisation you complain to must approach the other one and 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 that addresses all the issues it was agreed they would investigate.

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

6.3 Support to make a complaint

It can be daunting or distressing to make a complaint about an NHS service and consequently, many people decide not to make one. If you are thinking of making a complaint and want to discuss your options, or need help to prepare your complaint, or want someone to come with you to a meeting about it, you have a right to free support from an advocate.

There is an Independent NHS Complaints Advocacy Service in every local authority area. Contact your local Healthwatch to find out who delivers advocacy where you live.

6.4 Tips to help make an effective complaint

These tips and suggestions can help you engage confidently with the process at what may be a stressful or emotional time.

Be clear what your complaint is about:

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

Be clear about what you want to achieve by making a complaint?

You might want an apology, an explanation of why the incident happened, an agreement to rectify the results of poor treatment or care, or an explanation of what has been, or will be done, so it does not happen again.

When submitting your complaint:

- keep your tone of voice or correspondence polite and professional
- keep correspondence short and to the point when describing your complaint and what outcome you are looking for
- send supporting documentary evidence and list it in your email or letter.

After submitting your complaint and awaiting the outcome:

- 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 emails and correspondence and ask for written confirmation of verbal promises.

6.5 Your right to complain about NHS care

Your right to complain is in the NHS Constitution. You can find this at www.gov.uk/government/publications/the-nhs-constitution-for-england

7 What to expect if you make a formal complaint?

Staff should always:

- take your complaint seriously and treat you politely and with respect
- reassure you that making a complaint will not have a negative effect on your care and treatment.

7.1 Acknowledgement of your complaint

You can make a complaint in person or by phone, letter or email. If by phone, the person you speak to should send a letter or email detailing their understanding of your complaint. This allows you to check they understand it accurately.

Staff should acknowledge your complaint - orally or in writing - *within three working days*. If you do not hear within this time, contact them to find out why.

7.2 An opportunity to discuss your complaint

The person who acknowledges 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
- be asked if you would like details of your independent NHS complaints advocacy service
- hear what can realistically be achieved by looking into your complaint
- discuss options for taking it forward.

If you do not want this discussion, staff should write explaining how they propose to manage your complaint, including expected timescales for completing any investigation and for sending you a response.

7.3 To have your complaint properly looked into

The person responsible for managing your complaint should:

- discuss who to involve and the type of investigation most likely to help understand what happened and why, and lead to a satisfactory outcome

- agree an investigation that is proportionate 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.

7.4 Agree timescales and be kept informed of progress

If your complaint requires a full investigation, ensure all issues you want exploring are included, agree a plan of action and timescales. 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 to be longer than this or than agreed, staff should tell you why and send a response as soon as possible. If you are unhappy because agreed timelines are not met, contact the Ombudsman's helpline (see section 7.6). In the case of a hospital complaint, you can write to the Chief Executive.

7.5 Be told the outcome and options if still unhappy

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 the complaint specifies, or the 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 ask the Parliamentary & Health Service Ombudsman (PHSO) to look into your complaint and how to do this, if you are dissatisfied with all or part of their response.

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

7.6 Taking your complaint to the Ombudsman

The PHSO is independent of the NHS and the government and accountable directly to Parliament. *You should approach the PHSO within one year of becoming aware of the problem*. If it is longer than this, speak to their helpline for advice on how to proceed.

PHSO investigate a complaint if they believe there is a case to answer. Helpline staff can explain how they deal with complaints, time frames they work to and help you complete their complaints form. You can download the form from their website. The website explains in writing and video format how they manage complaints and things you need to know if considering legal action.

If PHSO decide an organisation has got things wrong, they can make recommendations for them to be put right. This includes giving you explanations and an apology; wanting the service to learn and improve and there may be recommendations for financial redress.

The PHSO and Local Government and Social Care Ombudsman (who investigates complaint handling by local authorities) have a joint team to handle complaints involving NHS and local authority services.

7.7 Monitoring and reporting on complaints handling

Each NHS 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
- significant learning arising from complaints or the way they were handled
- action taken, or to be taken, to improve services as a direct result of investigating complaints.

The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 make provision for complaints handling, see www.legislation.gov.uk/ukxi/2009/309/contents/made

8 Complaints about NHS use of *Mental Health Act*

If you are unhappy about the use of powers or how duties have been carried out under the *Mental Health Act 1983 (MHA)*, you should raise this with the service providing your care. They must have a complaints procedure. If you want support to make your complaint, 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, a specialist advocate trained to work within the *MHA* framework.

If unhappy with the outcome of the service's investigation, you can ask the Care Quality Commission (CQC) to investigate if your complaint relates to detention in hospital, care while subject to a community treatment order or when the subject of a guardianship. The CQC looks to see whether the local service handled your complaint fairly.

You can contact CQC 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 unnecessarily
- did not adequately plan for your discharge.

If your complaint does not relate to treatment under the MHA but, for example, is about treatment options or medication staff want you to take, or if you believe you should be discharged, complain to the service provider. They should follow the procedure described in sections 7 – 7.6.

9 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 1983* 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.

CQC inspectors review patient feedback and decide if it warrants follow up or action on their part. Patient feedback can influence decisions around registration and inspection of services, add to other information held about a service provider and helps inspectors make judgements about whether services are meeting standards of quality and safety.

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. The CQC always looks at the content of, and trends in, complaints and how each provider handles, responds to and learns from complaints.

10 Safeguarding concerns

Safeguarding refers to the process of 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 at ward level, 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 your concerns are about someone else's care, 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 must have a safeguarding policy describing steps staff must follow if concerns are brought to their attention. If you have concerns, speak with a senior staff member on the ward or ask PALS for contact details of the hospital's Safeguarding Lead. In non-hospital situations, raise your concerns with an individual's GP.

GP practices and other NHS organisations must have a staff member who leads on safeguarding. For more information, see factsheet 78, *Safeguarding older people from abuse and neglect*.

11 Negligence by an NHS organisation or healthcare professional

If you or a family member believe you have been harmed by an NHS organisation or healthcare professional because of negligence, you are entitled to an explanation and may get compensation for your injuries. These are complex areas. Action against Medical Accidents can help you decide if your experience falls into the category of a medical accident and if so, discuss your options.

You may have been told by an NHS organisation caring for you about an incident where your care or treatment has gone wrong and appears to have caused significant harm or has the potential to cause serious harm in the future. Organisations must share this with you under the Duty of Candour requirements in the *Health and Social Care Act 2008 (Regulated Activities) Regulations 2014*.

12 Complaints about a health professional

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 complain to their regulatory body. Each has procedures for investigating fitness to practice concerns. Examples 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

13 Complaints about private healthcare providers

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

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 their members.

Useful organisations

Action on Elder Abuse

www.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

A charity working 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

NHS organisations 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 on its website. If you cannot access the internet, call their Customer Advice and Information Team.

General Medical Council

www.gmc-uk.org/index.asp

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 regulator for opticians, optometrists, dispensing opticians and optical businesses practicing in the UK.

General Pharmaceutical Council

www.pharmacyregulation.org/

Telephone 0203 713 8000

The organisation to contact 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

<http://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 Government and Social Care Ombudsman

www.lgo.org.uk

Telephone 0300 061 0614

This Ombudsman can investigate complaints about privately funded adult social care as well as complaints about councils and some other authorities. It is a free service; their job is to investigate complaints in a fair and independent way.

Local Healthwatch and Healthwatch England

www.healthwatch.co.uk

Telephone 03000 683 000

Every local authority has a Healthwatch able to signpost to the local independent NHS Complaints Advocacy Service. Search Healthwatch England website or call for details of your local Healthwatch.

Mind

www.mind.org.uk

Telephone Infoline 0300 123 3393

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

NHS England

www.england.nhs.uk/contact-us/complaint/complaining-to-nhse/

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.

NHS website

www.nhs.uk

A comprehensive web information service with information on NHS services and many health conditions.

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

This 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 or Age Cymru 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 Advice

www.agecymru.org.uk

0800 022 3444

In Northern Ireland contact

Age NI

www.ageni.org

0808 808 7575

In Scotland contact

Age Scotland

www.agescotland.org.uk

0800 124 4222

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