

Factsheet 66

Resolving problems and making a complaint about NHS care

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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.

Contents

1 Introduction	4
2 Who can raise a concern or make a complaint?	4
3 Are there time limits to making a complaint?	5
4 What services can you complain about?	5
4.1 What might your concerns or complaint involve?	5
5 Steps in the complaints process	6
6 Making a formal complaint	8
6.1 Who to complain to	8
6.2 Complaints involving more than one organisation	9
6.3 Support to make a complaint	9
6.4 Tips to help make an effective complaint	9
6.5 Your right to complain about NHS care	10
7 What to expect if you make a formal complaint?	10
7.1 Acknowledgement of your complaint	11
7.2 An opportunity to discuss your complaint	11
7.3 To have your complaint properly looked into	11
7.4 Agree timescales and be kept informed of progress	12
7.5 Be told the outcome and options if still unhappy	12
7.6 Taking your complaint to the Ombudsman	12
7.7 Monitoring and reporting on complaints handling	13
8 Complaints about NHS use of <i>Mental Health Act</i>	14
9 Care Quality Commission	14
10 Safeguarding concerns	15
11 Negligence by an NHS organisation or healthcare professional	16

12 Complaints about a health professional	16
13 Complaints about private healthcare providers	17
Useful organisations	18
Age UK	21
Support our work	21

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, and have it acknowledged and properly investigated.

The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 govern the NHS complaints process and parameters. They require NHS organisations to have a complaints procedure that tells you who is responsible for complaints, how they manage and might investigate a complaint, respond following an investigation, and what you can do if still dissatisfied.

Staff should tell you about advocacy support. This can help if you want to talk through your concerns or need help drawing up your complaint.

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 an advocate, lip reader, a British Sign Language or foreign language interpreter to help 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 a fair investigation is possible.

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, ambulance services, NHS 111
- an independent hospital if the NHS pays for your care. See section 13 if your complaint is about private treatment.

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 with a health professional
- poor procedures affecting the time or route taken to reach a diagnosis
- poor procedures affecting 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

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

Before you do this, decide what you would like to happen as a result. You may be satisfied if the person concerned apologises; 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 a relative's needs, or information from a doctor proving difficult to reach.

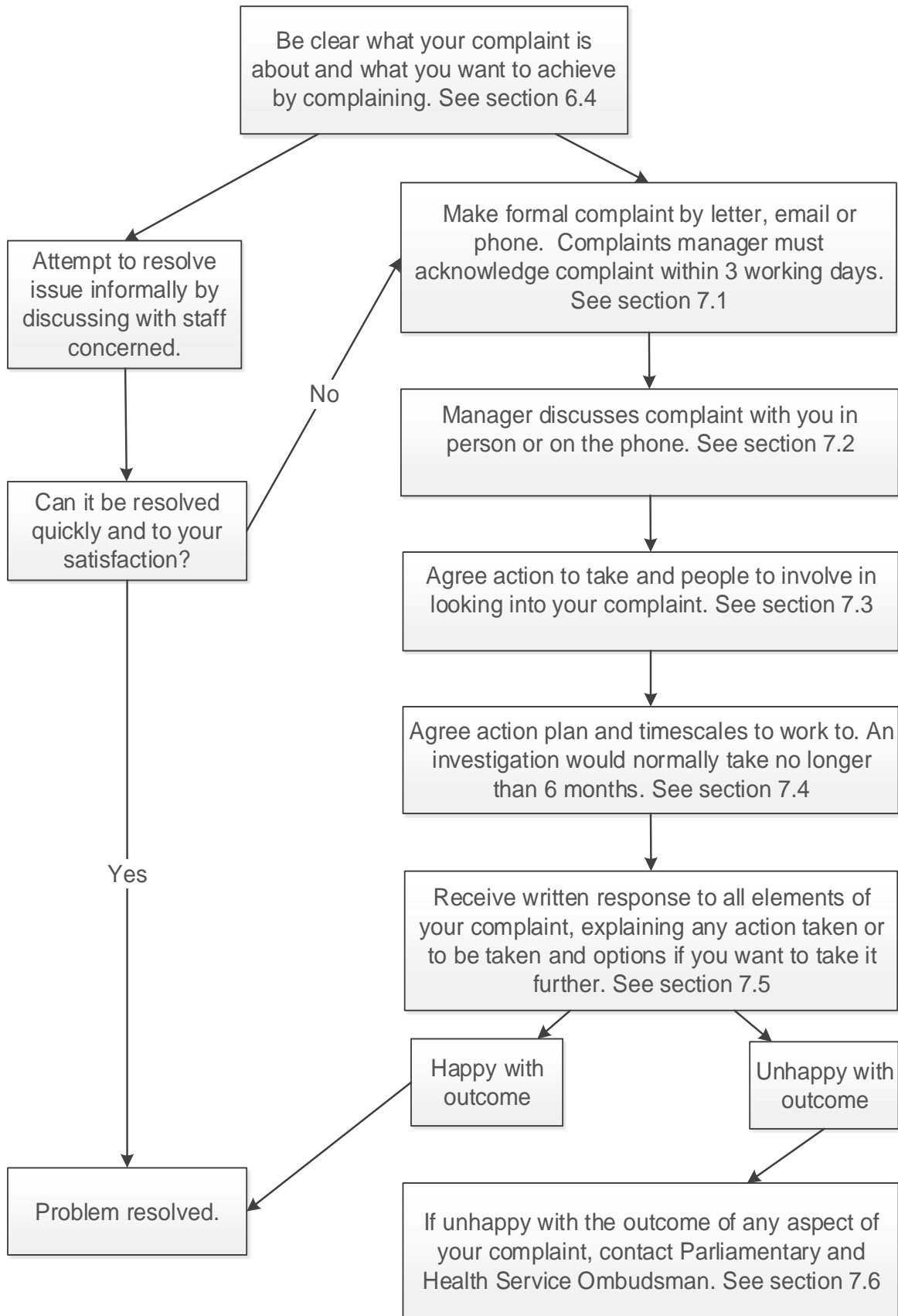
Step two: Making a formal complaint

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 (PALS) who can explain the complaints process. You can ask PALS to intervene on your behalf and try to resolve the issue informally and 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 buys a service you use – known as the 'commissioner'.

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

A Clinical Commissioning Group (CCG) buys hospital services, ambulance services, GP out-of-hours, NHS 111, mental health services and community services such as district nurses, for people living in their area. To find your CCG, go to www.nhs.uk/service-search, choose "*clinical commissioning group*" and add 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 that managed your discharge and the local authority that arranged discharge support.

6.3 Support to make a complaint

It can be daunting or distressing to make a complaint about an NHS service and consequently, some 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.

If you do not seek advocacy, you may want to talk the issue through with a friend and ask if they will read any correspondence before you send it.

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? Name, date of birth, address, NHS number if possible.

- What happened or went wrong? Be specific. Try not to make generalisations and ideally give dates and times.
- 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 put right 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 brief. Focus on the main points when describing your complaint, and say what you would like to happen as a result
- 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

The NHS Constitution explains your right to complain. 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*. Contact them if you do not hear within this time.

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 and discuss ways to take it forward
- 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 looking into your complaint
- be given details of the independent NHS complaints advocacy service.

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 their 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 soon as possible. One option may be a face-to-face meeting between you and staff concerned, involving a mediator if necessary.

7.4 Agree timescales and be kept informed of progress

If your complaint needs a full investigation, ensure all issues you want addressed are included, agree a plan of action and timescales. You can expect 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, you should be told why and sent a response as soon as possible.

If you are unhappy that agreed timelines are not met, contact the Parliamentary & Health Service Ombudsman (PHSO) 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 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 also explains things you need to know if considering legal action.

If PHSO decides 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 section 7.

9 Care Quality Commission (CQC)

The CQC is the independent regulator of health and adult social care in England and investigates individual complaints relating to the *MHA 1983*.

The CQC cannot investigate complaints about NHS and social care services but wants you to share both good and bad experiences with them. You can do this by letter, phone or '*share your experience*' form on their website. Inspectors review 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 at ward level, 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. You can discuss any concerns and get advice by contacting Hourglass.

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. You can raise the matter with your local authority safeguarding team and also notify CQC.

GP practices, dental practices and other NHS organisations will 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 guide for patients and a code of practice for their members on dealing with complaints. They only look into complaints involving their members.

Useful organisations

Action against Medical Accidents

www.avma.org.uk

Telephone helpline 0845 123 2352

A charity working for patient safety and justice. It offers information and advice to support people affected by medical accidents.

Care Quality Commission

www.cqc.org.uk

Telephone 03000 61 61 61

Independent regulator of adult health and social care services in England and can investigate complaints about use of *Mental Health Act 1983*.

General Dental Council

www.gdc-uk.org/

The General Dental Council (GDC) is responsible for registering all dentists and dental care professionals who practise in the UK and investigating concerns about their 'fitness to practice'.

General Medical Council

www.gmc-uk.org/index.asp

The organisation to contact if you have 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)

<https://www.hcpc-uk.org/>

Telephone 0800 328 4218

Keep a register of selected health and care professionals and investigates '*fitness to practice*' concerns.

Hourglass

www.wearehourglass.org/england

Telephone 0808 808 8141

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

Independent Sector Complaints Adjudication Service (ISCAS)

<https://.iscas.cedr.com>

Telephone 020 7536 6091

Voluntary scheme for independent healthcare providers and provides independent adjudication on complaints about its members.

Local Government and Social Care Ombudsman

www.lgo.org.uk

Telephone 0300 061 0614

Can investigate complaints about privately funded adult social care and complaints about local councils.

Local Healthwatch and Healthwatch England

www.healthwatch.co.uk

Telephone 03000 683 000

Local Healthwatch can signpost to the local independent NHS Complaints Advocacy Service.

Mind

www.mind.org.uk

Infoline 0300 123 3393

Provides information and support to anyone experiencing a mental health problem.

NHS England

www.england.nhs.uk/contact-us/complaint/complaining-to-nhse/
Telephone 0300 311 22 33

Can ask to investigate complaints about primary care services if you do not wish to complain to the service itself.

Nursing and Midwifery Council

www.nmc.org.uk/
Telephone 020 7681 5688

Can investigate 'fitness to practice' concerns about nurses and midwives.

Parliamentary and Health Service Ombudsman

www.ombudsman.org.uk
Telephone helpline 0345 015 4033

This Ombudsman investigates complaints about NHS care in England.

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 Advice

www.agecymru.org.uk

0300 303 4498

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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The evidence sources used to create this factsheet are available on request. Contact resources@ageuk.org.uk

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