



advice and support for older age

**Independent
Age**

Factsheet

Complaints about care and health services

If you're unhappy with the social care and health services you receive, this factsheet can help you to make a complaint. It can also help you if you want to take legal action.

Call FREE on **0800 319 6789** Visit **www.independentage.org**

Last reviewed: March 2017

Next review date: October 2017

About Independent Age

Whatever happens as we get older, we all want to remain independent and live life on our own terms. That's why, as well as offering regular friendly contact and a strong campaigning voice, Independent Age can provide you and your family with clear, free and impartial advice on the issues that matter: care and support, money and benefits, health and mobility.

A charity founded over 150 years ago, we're independent so you can be.

The information in this factsheet applies to England only.

If you're in Wales, contact Age Cymru (0800 022 3444, agecymru.org.uk) for information and advice.

In Scotland, contact Age Scotland (0800 12 44 222, agescotland.org.uk).

In Northern Ireland, contact Age NI (0808 808 7575, ageni.org).

Contents

1. Why you might want to make a complaint	4
2. How to use this factsheet	8
3. How to make a complaint	9
4. Applying for a judicial review	12
5. Getting support with making a complaint	14
6. Complaining about care in your own home	16
7. Complaining about care in a care home	18
8. Complaining about care in hospital or another NHS setting	20
9. Complaining about both NHS services and social services	26
10. Complaints about an individual care or health professional	27
11. If the complaint is about abuse	29
12. Taking it further	31
13. Things to remember	35

1. Why you might want to make a complaint

Many of us are happy with the help we get from the NHS or from our local council social services department. However, sometimes things can go wrong and you may be unhappy about an ongoing situation or a particular incident. Sometimes it's enough to have an informal conversation with the individual concerned, another member of staff or the manager. This will give them the opportunity to try and resolve the problem. However, if the problem continues, or you're not happy with their response, you may want to go further and make an official, or formal, complaint. You might also want to consider taking legal action.

You have a right to complain about poor care. Complaining can be a way to:

- find out what went wrong
- get an explanation of why it happened
- get an apology
- make sure it doesn't happen again to someone else

Complaints about social care could be about:

- the way your care needs have been assessed
- the way your money has been assessed
- delays in being given a decision or help
- being refused a service without a good reason
- the amount you're being charged for the service
- the quality or amount of care you are being given (for example, your carers aren't staying as long as they should)
- poor communication from the care provider (for example, if you haven't been formally told about a change to your care services)
- a change in your care services such as receiving fewer hours of care
- the behaviour and attitude of staff (for example, if they have been unhelpful or rude)
- a lack of information (for example, if you haven't been given enough information to help

you make a decision or you've been given incorrect information).

Complaints about health services could be about:

- the quality or amount of healthcare given by your GP, dentist, optician, hospital medical team, district nurse, occupational therapist or other healthcare professional
- having to wait longer than the NHS maximum waiting time for appointments or procedures
- having appointments or procedures cancelled for no good reason
- poor communication, for example information not being correctly passed between different health professionals treating you
- misleading information about your treatment or right to services
- inadequate assessments of your health and care needs before being discharged from hospital
- neglectful or harmful treatment
- the behaviour and attitude of staff (for example, if they have been unhelpful or rude).

If you're considering a formal complaint, you may also need to consider if you want to take legal action by applying for a judicial review. See chapter 4 for more information.

2. How to use this factsheet

This factsheet gives general advice on making a complaint or taking legal action, and then specific advice depending on the service you're complaining about. Start by reading sections 3, 4 and 5 for general help. Then, depending on what you're making a complaint about, turn to:

Section 6: Complaining about care in your own home

Section 7: Complaining about care in a care home

Section 8: Complaining about care in hospital or another NHS setting

Section 9: Complaining about both NHS services and social services

Section 10: Complaints about an individual care or health professional

Section 11: If the complaint is about abuse.

If you're not happy with the response you get to your complaint, turn to section 12 on taking your complaint further.

3. How to make a complaint

All health and social care services must have a complaints procedure. Ask the service you want to complain to for a copy. It should be available in different formats, such as on their website or in a leaflet. The procedure will tell you who to contact and how your complaint will be handled.

You can make your complaint by telephone, email, letter or by completing an online form. You should receive written acknowledgement of your complaint within three working days. You should also be told what will happen next, how long the initial investigation will take and who will contact you with the outcome.

You can make a complaint yourself or ask a friend or a relative to do it for you. If you don't have anyone to help and you feel it would be difficult for you to go through the process alone, you could get support from an independent advocate or an organisation (see chapter 5).

Make your complaint as soon as you can. The time limit for making a complaint is usually within 12 months of the problem arising. However, you might still be able to complain after 12 months if you have a good reason for

the delay (for example, if you have been ill or in hospital).

Good to know



If you're considering legal action rather than a complaint, you may need to act more promptly. For example, judicial review action must be taken within three months, so get specialist advice as soon as possible (see chapter 4).

Top tips for making a complaint

- Make it clear from the start of a conversation, letter or email that you're making a formal complaint
- Give a clear and concise account of what happened or what went wrong.
- Include all the relevant facts (for example, dates, times and names), but try to keep the description as brief as possible.
- Explain what you would like to happen as a result of your complaint. For example, to receive an apology or for steps to be taken to prevent the problem from happening again.

- If you're making your complaint in writing, attach copies of any relevant letters and documents and list all the attachments in your letter or email.
- Keep your tone polite and professional, even if you feel angry or upset.
- Keep copies of all the letters and documents that you have sent and any responses you receive.
- Ask for the name and job title of any person you speak to about your complaint. Take note of what was said in case you need to refer to the conversation in the future.
- Ask for written confirmation of any verbal decisions or promises of action.

4. Applying for a judicial review

A judicial review is a type of court proceeding where a judge looks at whether a public body, like a council or hospital trust, has applied the law correctly and followed the right procedures. It is a challenge to the way something was done, rather than the outcomes.

A judicial review can be a fast and effective way to get a public body to reconsider a decision or take action. However, it's not appropriate in every case. You should get legal advice first to see if you have a good case. You might be able to get free initial legal advice through a Law Works legal advice clinic (lawworks.org.uk), or from the Disability Law Service ([020 7791 9800](tel:02077919800), dls.org.uk).

Applying for a judicial review is also expensive, but people with a suitable case and limited income may be able to get legal aid. To find out if you qualify, contact Civil Legal Advice ([0345 345 4 345](tel:03453454345), gov.uk/civil-legal-advice).

If you have grounds to start a judicial review claim, the first stage is to send a 'letter before action'. This sets out the details of the decision or action that you want to challenge and the

reason why you think it is unlawful. The public body must respond within a set time limit. In some cases, a letter before action is enough to sort out the claim.

If you're considering judicial review you need to act quickly. You must make an application within three months of the decision or action you wish to challenge. If your case is urgent it may be resolved very quickly but if not, judicial review can take a long time.

The Public Law Project has produced an Introduction to Judicial Review, which explains how the process works and can help you find a specialist solicitor (020 7843 1260, publiclawproject.org.uk/resources/6/an-introduction-to-judicial-review).

5. Getting support with making a complaint

If you want to talk to someone about the process of making a complaint and what your options are, contact us at Independent Age and arrange a telephone appointment with an adviser ([0800 319 6789](tel:08003196789), advice@independentage.org).

If you'd prefer to speak to someone face-to-face about your concerns, you could contact your local Age UK ([0800 169 6565](tel:08001696565), ageuk.org.uk) or Citizens Advice ([03444 111 444](tel:03444111444), citizensadvice.org.uk).

If you would find it difficult to make a complaint and get your voice heard, you could speak to an independent advocate. An advocate can help you understand information about the service that has let you down, and help you communicate your views, wishes and concerns. An advocate may be able to help you resolve problems and make communication easier between you and the organisation you're complaining about.

You can find a local independent advocacy organisation by using the Older People's Advocacy Alliance website (opaal.org.uk).

Some Age UK branches offer advocacy services. Ask your local branch or contact the national helpline (0800 169 6565, ageuk.org.uk) to find out what is available in your area.

For more information about advocacy, see our factsheet **Independent advocacy** (0800 319 6789, independentage.org).

6. Complaining about care in your own home

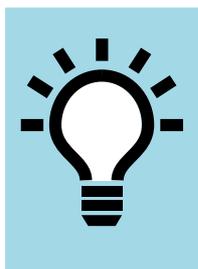
It can be difficult to complain about care at home, especially if you're worried your carer could be blamed for something you don't feel is their fault (for example, if they turn up later than they should because they have lots of people to visit before you). But it's important to raise this issue with the organisation arranging your care. You have the right to feel comfortable and confident with the care you receive, and to know that any problems will be resolved.

You may feel unhappy with the care you receive in your own home if, for example:

- you're being charged more than you feel you can afford
- you've received a bill that's higher than you were told it would be
- your carers haven't turned up on time, or are staying for less time than they should
- your carers haven't helped with the personal tasks they should have done.

If you can't resolve the issue directly with the care agency and your care has been organised by your council, you can make a complaint using the council's complaints procedure. Alternatively you can complain to both the agency and the council at the same time. If you arranged care privately through an agency or a voluntary organisation, ask for a copy of their complaints procedure.

Good to know



Whether you have complained to the home care agency or to the local council social services department, if you're unhappy with the outcome you can make a further complaint to the Local Government Ombudsman ([0300 061 0614](tel:03000610614), lgo.org.uk) (see chapter 11).

You can also report your concerns about private home care agencies to the Care Quality Commission (CQC) ([03000 616161](tel:03000616161), cqc.org.uk), an independent body which regulates all home care agencies in England. They don't investigate individual complaints but can check that the agency is dealing with your complaint and learning from it. In more serious cases, they may carry out or bring forward an inspection.

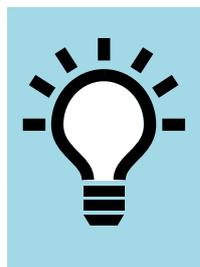
7. Complaining about care in a care home

If you live in a care home and you're unhappy with your care, first talk to the care home manager or matron if you feel comfortable doing this. You could ask a friend or relative to do this on your behalf if you prefer. Ask for a copy of the home's complaints procedure.

If the council pays anything towards your care home fees and you're unhappy about making your complaint to the care home, then you can use the council's complaints procedure.

If you pay your own care home fees and feel the home hasn't resolved your concerns, or if the council is contributing to your fees and you're unhappy after making a complaint to them, you can complain to the Local Government Ombudsman ([0300 061 0614](tel:03000610614), lgo.org.uk) (see chapter 11).

Good to know



You can also report your concerns about care homes to the Care Quality Commission (CQC) ([03000 616161](tel:03000616161), cqc.org.uk), an independent body which regulates all care homes in England.

They don't investigate individual complaints but can make sure care homes meet important standards of quality and safety. You can speak to the inspectors in confidence.

If you and the care home manager can't agree on a way to resolve the complaint, your only option may be to move to another care home. Contact the Elderly Accommodation Counsel (EAC) for details of care homes in your area ([0800 377 7070](tel:08003777070), housingcare.org).

8. Complaining about care in hospital or another NHS setting

If you're unhappy with the care you receive in hospital, or from a doctor, dentist, optician, pharmacist or physiotherapist, you should raise this with staff at the time. This can give them a chance to put things right or to make a note of the problem to make sure it doesn't happen again. This may be enough for you to feel better about the situation.

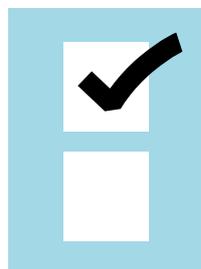
If the problem can't be resolved in this way, you can make a complaint using the NHS complaints procedure. You can ask the organisation or institution you would like to complain to – for example a GP surgery, dentist practice or hospital – for a copy and the name of the person you should direct your complaint to.

If you don't feel comfortable complaining directly to the service you are unhappy with, you can contact the commissioner of that service instead. If your complaint is about primary care health services, such as your doctor, GP practice, dentist, pharmacist or optician, direct it to NHS England (NHS England, PO Box 16738, Redditch,

B97 9PT, [0300 311 22 33](tel:03003112233), or email england.contactus@nhs.net).

If you're complaining about secondary care health services, such as hospital, out-of-hours, ambulance, community health and mental health services, speak to your local Clinical Commissioning Group (CCG). These are groups of GP surgeries that work together to plan local health services and check that they're providing the best possible care. You can find your local CCG by visiting england.nhs.uk/ccg-details/

To do



To find out more about making a complaint about NHS services, visit the NHS Choices website at nhs.uk/NHSEngland/complaints-and-feedback/Pages/nhs-complaints.

Before making a complaint, make sure that it's definitely the NHS who is responsible for the service, as some health services are provided on a private basis.

You can also report your concerns to your local Healthwatch. They will make sure that your views and experiences with the health and social care services in your area are taken seriously

and represented locally and nationally. They can also connect you with a local advocacy service to support you with your complaint. To find your local Healthwatch, contact Healthwatch England (03000 68 3000, healthwatch.co.uk).

You can also report your concerns about hospitals to the Care Quality Commission (CQC) (03000 616161, cqc.org.uk), an independent body which regulates all hospitals in England.

Getting support with your NHS complaint

You can get help from your local Patient Advice and Liaison Service (PALS). They can record and discuss your complaint, direct your complaint to the correct department and support you throughout. PALS can also arrange an independent advocate for you (see chapter 5). Details of your local PALS are available from your local library, GP surgery, dentist surgery or hospital and on the NHS Choices website (nhs.uk).

Your local council will also be able to tell you if there is an independent NHS complaints advocacy service in your area. An advocate will be able support you to make an official complaint, for example by writing letters or

attending meetings with you. See our factsheet **Independent advocacy** for more information ([0800 319 6789](tel:08003196789), independentage.org).

The Patients Association ([020 8423 8999](tel:02084238999), patients-association.org.uk) may also be able to provide advice and support with your complaint.

Complaining about private healthcare

If your complaint is about private healthcare, you will need to complain directly to the healthcare provider. Each private healthcare provider should have their own formal complaints procedure.

If you're not happy with their response, you can contact the Independent Healthcare Sector Complaints Adjudication Service (ISCAS) ([020 7536 6091](tel:02075366091), iscas.org.uk). Their website has information on how to make a complaint.

For more information and support, you can contact the Patients' Association ([020 8423 8999](tel:02084238999), patients-association.org.uk).

Clinical negligence

Clinical negligence can occur when someone involved in your healthcare provides you with treatment that is below an acceptable standard, and this directly results in you suffering an injury. Examples of negligence could include:

- having your condition diagnosed incorrectly
- a delay or failing to treat your condition
- a mistake being made during an operation or treatment
- not getting your consent for a particular type of treatment.

It can be tricky to determine whether or not clinical negligence has happened, but you may be able to claim financial compensation if it appears that negligence occurred in your case. You can also make a claim on behalf of someone who doesn't have the mental capacity to do so themselves, or who has died. You must take legal action within three years of the injury taking place (or when you realised), but the sooner you can get specialist advice, the better.

For advice about whether clinical negligence has taken place in your case and what to do next, contact Action against Medical Accidents (avma.org.uk, 0845 123 2352). If you do decide to take legal action and need to find a solicitor specialising in clinical negligence, contact the Law Society (solicitors.lawsociety.org.uk, 020 7320 5650).

9. Complaining about both NHS services and social services

You may need to make a complaint about both NHS health services and social services. For example, you may wish to complain about a delayed discharge from hospital that was partly caused by the lack of home care services from social services.

If a complaint concerns both the NHS and adult social services, you only need to make your complaint to one organisation. That organisation must contact the other service to decide who will take overall responsibility for dealing with your complaint. They should then co-ordinate the investigation and act as your main point of contact so that you receive a single response that addresses all of your concerns. Both bodies may be required to attend any meetings that are held as part of the complaint process.

10. Complaints about an individual care or health professional

If your complaint involves an individual, you may wish to complain about their behaviour as a professional. Listed below are some examples of bodies who can investigate specific professions.

Complaints about a social worker

Contact the Health and Care Professions Council (HCPC) ([0300 500 6184](tel:03005006184), hpc-uk.org). You can refer to the standards of conduct for social workers (available on the HCPC website).

Complaints about a doctor

Contact the General Medical Council (GMC) ([0161 923 6602](tel:01619236602), gmc-uk.org). The GMC complaints department can investigate doctors working in the UK.

Complaints about a dentist

Contact the General Dental Council (GDC) ([020 7167 6000](tel:02071676000), gdc-uk.org). The GDC can investigate all concerns from dental patients, whether they are NHS or private patients.

Complaints about a nurse

Contact the Nursing and Midwifery Council ([020 7637 7181](tel:02076377181), nmc.org.uk). If necessary, it can remove a nurse's professional registration permanently or for a set period of time.

Complaints about another health professional

If you have a complaint about another health professional such as an occupational therapist, speech and language therapist or physiotherapist, contact the Health and Care Professions Council ([0300 500 6184](tel:03005006184), hpc-uk.org). They have a register of certain health professionals and can investigate complaints if it is about a profession they regulate.

11. If the complaint is about abuse

Abuse can occur in any setting - in a care home, at home, in hospital or at a day centre. Whatever form the abuse takes (for example, financial, physical, sexual, psychological abuse or neglect) this can be reported to social services and/or the police.

If you contact social services with your concerns, you should be referred to the social services adult protection coordinator or safeguarding team. They have a responsibility to investigate any reports of abuse.

Read our free guide **Staying in control when you're older** to find out more about abuse, how to prevent it and how to report it ([0800 319 6789](tel:08003196789), independentage.org).

Good to know



If you wish to speak to someone in confidence about suspected abuse, you can contact Action on Elder Abuse ([0808 808 8141](tel:08088088141), elderabuse.org.uk) or an independent advice service such as Independent Age ([0800 319 6789](tel:08003196789), independentage.org).

You may also want to get support from an independent advocate (see chapter 5).

12. Taking it further

If you've made your complaint to a council, NHS or a care provider, but you're not happy with the outcome, there are further steps you can take.

Contacting the Ombudsman

You can contact the Parliamentary and Health Services Ombudsman for complaints about NHS services, or the Local Government Ombudsman for complaints about social care services.

The Local Government Ombudsman

The Local Government Ombudsman (LGO) ([0300 061 0614](tel:03000610614), lgo.org.uk) can investigate complaints about local councils. This can include the work of social services departments. The LGO can investigate complaints from people who arrange or pay for their own care, whether in a care home or in their own home, as long as the home is registered with the Care Quality Commission (CQC).

A complaint must usually be made within 12 months of the initial problem, unless there are special reasons. The Ombudsman usually just

provides recommendations but can also suggest compensation.

The Parliamentary and Health Service Ombudsman

The Parliamentary and Health Service Ombudsman ([0345 015 4033](tel:03450154033), ombudsman.org.uk) is completely independent of the NHS and government and can investigate complaints about NHS services. They can investigate if you were not happy with the response to your complaint about an NHS body or if you haven't had a decision on your complaint within six months. They can't deal with complaints about privately funded healthcare unless it was funded by the NHS.

Applying for a judicial review

You could also consider applying for a judicial review at this stage (see Chapter 4) as long as it is within three months of the decision or action you wish to challenge.

You cannot complain to the Ombudsman and apply for a judicial review, so you need to decide which option is best in your situation.

Taking private legal action

It is also possible to take a public authority to court, although the process is slow and can be very expensive.

If you decide to take legal action, you may want to contact Civil Legal Advice ([0345 345 4 345](tel:03453454345), gov.uk/civil-legal-advice) to find out whether you would qualify for legal aid. They can also give you details of other specialist organisations or solicitors.

You can also find legal specialists through the Law Society (solicitors.lawsociety.org.uk, [020 7320 5650](tel:02073205650)).

Make sure you use a solicitor who specialises in the relevant area of law, for example community care law, even if there are none very local to you. Most specialist solicitors are experienced at working from a distance. You should ask about their previous cases and the likely costs.

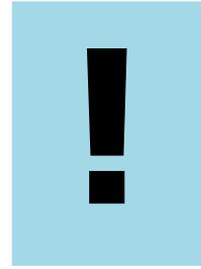
You might be able to get free initial legal advice through a Law Works legal advice clinic (lawworks.org.uk), or from the Disability Law Service ([0207 791 9800](tel:02077919800), dls.org.uk).

Getting others interested

You may want to try to get support from a local voluntary organisation, your local councillor or your MP. You can find the contact details for your local MP on the They Work For You website (theyworkforyou.com).

You can also write to the government minister responsible for the public service you're unhappy with. Find out which ministers are responsible for NHS care or social care by visiting gov.uk/government/organisations/department-of-health.

13. Things to remember



- Don't wait if things are going wrong with your care or health services; tell someone as soon as you can.
- Do ask for explanations if you don't understand what you're being told. Small problems can become bigger when there is a misunderstanding or breakdown in communication.
- Don't feel that you're being a nuisance. Organisations need to know if there is a problem and usually prefer to be told so that they have a chance to put things right.
- Do ask for help. If you need to make a complaint but can't do it by yourself, there are lots of organisations such as Independent Age who can help ([0800 319 6789](tel:08003196789), independentage.org).

Our publications cover England only. While we make every reasonable effort to ensure that our information is accurate at the time of publication, information can change over time. Our information should not be used as a substitute for professional advice. Independent Age does not accept any liability for any loss, however caused, arising from the use of the information within this publication. Please note that the inclusion of other organisations does not constitute an endorsement from us.

The sources used to create this publication are available on request. Contact us using the details below.

Thank you

Independent Age would like to thank those who shared their experiences as this information was being developed, and those who reviewed the information for us.

What do you think?

We welcome your feedback on our publications. We will use your comments to help us plan future changes.

If you would like to be involved in helping us to develop our information products, you can join our Readers Panel. For more information visit independentage.org/readers-panel or call us.

Other formats

If you need this information in a different format (such as large print or audio cd), please contact us.

Contact us

Call us **0800 319 6789**

Email **advice@independentage.org**

Visit **www.independentage.org**