

Factsheet

Complaints about care and health services

If you're unhappy with the social care and/or 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.

The coronavirus (COVID-19) pandemic means some new and existing complaints may be on hold. This factsheet explains how different complaints may be affected.



Call free on 0800 319 6789

Visit www.independentage.org

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, ageuk.org.uk/cymru)
for information and advice.**

**In Scotland, contact Age Scotland
(0800 12 44 222, ageuk.org.uk/scotland).**

**In Northern Ireland, contact Age NI
(0808 808 7575, ageuk.org.uk/northern-ireland).**

In this factsheet, you'll find reference to our other free publications. You can order them by calling **0800 319 6789** or by visiting www.independentage.org/publications.

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1. When things go wrong

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.

If this happens, don't be afraid to speak out. 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. 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 should receive appropriate support to make a complaint if you need it.

During the COVID-19 pandemic, some new and existing complaints may be on hold. We look at what this means for you in the different sections of this factsheet.

The kinds of things that can go wrong with your social care services include:

- delays in carrying out an assessment
- the way your care needs have been assessed
- delays in being given help or a decision
- being refused a service without a good reason
- your services being cut without a good reason
- the quality or amount of care you are being given (for example, your care workers aren't staying as long as they should)

- the amount you're being charged for the service
- poor communication from the care provider or the council
- the behaviour and attitude of staff (for example, if they have been unhelpful, rude or discriminatory)
- 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)
- the council not interpreting or applying the law correctly.

Health services can also go wrong, for example:

- being refused the healthcare you think you need
- feeling unhappy with the quality or amount of healthcare given by your GP, dentist, optician, hospital medical team, district nurse, occupational therapist or other healthcare professional
- waiting 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 is not correctly passed between different health professionals treating you
- being given 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.

If you're considering a formal complaint, you may also want to consider if you'd like to take legal action. See section 12 for more information.

2. How to use this factsheet

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

Section 5: Complaining about care in your own home

Section 6: Complaining about care in a care home

Section 7: Complaining about care in hospital or another NHS setting

Section 8: Complaining about both NHS services and social services

Section 9: Complaining about an individual care or health professional

Section 10: If the complaint is about abuse.

If you're not happy with the response you get to your complaint, turn to section 11 on taking your complaint further. Section 12 covers taking legal action, which is separate to the complaints process.

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.

During the COVID-19 pandemic, some organisations may not be investigating new complaints, and they may have put existing complaints on hold. Check with the organisation before submitting your complaint to find out how it will be handled.

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

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 section 4). If you no longer have mental capacity, someone may need to make a complaint on your behalf. See our factsheet **Managing my affairs if I become ill** for more information.

Make sure you know who to complain to. For example, if your care is funded by the council but provided by a private company, then the council are still responsible for making sure you receive appropriate care. You should send your complaint to them.

Make your complaint as soon as you can. The time limit for making a complaint is usually within 12 months of the problem arising (or you becoming aware of it if this is later). 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) and it is still possible to investigate the complaint.

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 unless a court gives permission for a late application to be made. So it is important to get specialist advice as soon as possible (see section 12).

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.
- If something isn't done within the time that it should be, chase it up immediately.

4. 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 Independent Age and arrange to speak to an adviser (**0800 319 6789**, 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**, ageuk.org.uk) or Citizens Advice (**03444 111 444**, citizensadvice.org.uk). Be aware that face-to-face advice services may not be operating as usual, to reduce the spread of coronavirus.

Advocacy support

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.

In certain circumstances, you may have a right to advocacy support. For more information about advocacy, see our factsheet **Independent advocacy**.

5. Complaining about care in your own home

It can be difficult to complain about care at home, especially if you're worried your care worker 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 still 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've received a bill that's higher than you were told it would be
- your care workers haven't turned up on time, or are staying for less time than they should
- your care workers aren't using your specialist equipment, such as a mobile hoist, correctly
- your care workers haven't helped with the personal tasks they should have done.

If the problem is about the quality of your care, you should raise it with the care agency first. They must have a complaints procedure and you can ask for a copy of it. If your care has been arranged or funded by your council you can also make your complaint straight to them. Alternatively, you can complain to both the agency and the council at the same time.

If you're concerned about something that isn't in the care agency's control – such as the amount you're being charged by the council, or the fact that your care services are being cut – then you may want to get advice first on whether the council is acting lawfully (see section

12 about judicial reviews). This is because you may want to consider taking legal action instead of making a complaint. If you are going to make a complaint about the council's behaviour, then you will need to use the council's complaints procedure.



Good to know

Whether you have complained to the home care agency or the local council social services department, if you're unhappy with the outcome or they haven't responded within a reasonable time, you can ask the Local Government and Social Care Ombudsman (**0300 061 0614**, lgo.org.uk) (see section 11) to review it. An ombudsman looks into complaints about companies and organisations, and may recommend they take certain actions to put things right. They are independent, free and impartial. They can be a way of trying to resolve a complaint without going to court. There are different ombudsmen for different organisations.

You can also report your concerns about home care agencies to the Care Quality Commission (**03000 616161**, cqc.org.uk), an independent body which regulates all home care agencies in England. They don't investigate individual complaints but, in more serious cases, they may carry out or bring forward an inspection, or use your evidence if the agency is being inspected at that time.

6. Complaining about care in a care home

If you live in a care home and you're unhappy with the quality of 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 (even if you end up paying it back through charges) and you're uncomfortable about making your complaint to the care home, then you can use the council's complaints procedure.

Whether you pay your own care home fees and feel the home hasn't resolved your concerns, or the council is contributing to your fees and you're unhappy after making a complaint to them, you can ask the Local Government and Social Care Ombudsman to review your complaint (**0300 061 0614**, lgo.org.uk) (see section 11).

If you're concerned about something that isn't in the care home's control – such as the amount the council is prepared to pay towards the care home's fees, or the accuracy of the information the council provided – you may want to get advice first on whether the council is acting lawfully (see section 12 about judicial reviews). This is because you may want to consider taking legal action instead of making a complaint. If you're going to make a complaint, you will need to use the council's complaints procedure in the first instance.



Good to know

You can also report your concerns about care homes to the Care Quality Commission (**03000 616161**, [cqc.org.uk](https://www.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. If it is a serious issue, they may bring forward their inspection of that care home. You can speak to the inspectors in confidence.

If you are unhappy about the quality of care provided by the care home and 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. Our guide **How to find the right care home** may help.

7. Complaining about care in hospital or another NHS setting

During the COVID-19 emergency, the NHS stopped investigating new and existing complaints, apart from complaints where there were concerns about patient safety that needed immediate investigation. You can still make a new complaint, but it may be some time before it's investigated. If you have an existing complaint, you should have been informed about the investigation into it being on hold.

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 resolve the issue and 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, call **0300 311 2233**, 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). This is the body that is responsible for organising your health

services. The CCG responsible for your particular services is the CCG that your GP belongs to. You can find your CCG by visiting england.nhs.uk/ccg-details.



To do

To find out more about making a complaint about NHS services, visit the NHS website at nhs.uk/using-the-nhs/about-the-nhs/how-to-complain-to-the-nhs.

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

You can also report your concerns to your local Healthwatch. They will make sure that your views and experiences of 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 683 000**, healthwatch.co.uk).

You can also report your concerns about health services to the Care Quality Commission (CQC) (**03000 616161**, cqc.org.uk), an independent body which regulates many different types of health services in England. Visit cqc.org.uk/what-we-do/services-we-regulate/services-we-regulate to find out more.

Healthwatch and the CQC don't investigate individual cases, but it will help them identify and address quality issues in care and health services.

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 section 4). Details of your local PALS are available from your local library, GP surgery, dentist surgery or hospital and on the NHS website ([nhs.uk](https://www.nhs.uk)).

Your local council or Healthwatch (see previous page) will also be able to tell you if there is an independent NHS complaints advocacy service in your area. An advocate will be able to 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.

The Patients Association (**0800 345 7115**, [patients-association.org.uk](https://www.patients-association.org.uk)) may also be able to provide information and support.

Complaining about private healthcare

If your complaint is about private healthcare that you are funding yourself, 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) if your provider is a member (**020 7536 6091**, [iscas.cedr.com](https://www.iscas.cedr.com)).

If you're receiving treatment from a private healthcare provider but it is funded by the NHS, you should go through the NHS complaints procedure.

For more information and support, you can contact the Patients' Association (see above).



Remember

If you're injured as a result of treatment that is below an acceptable standard, this is known as clinical negligence. You may be able to claim financial compensation – see section 12 to find out more.

8. Complaining about both NHS services and social services

You may need to make a complaint about both an NHS health service and a council. For example, you may wish to complain about a delayed discharge from hospital that was partly caused by a lack of home care services from your local council's adult social services team.

If your complaint concerns both the NHS and adult social services, you only need to complain 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 coordinate the investigation and act as your main point of contact so 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.

9. 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**, [hcpc-uk.org](https://www.hcpc-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**, [gmc-uk.org](https://www.gmc-uk.org)). The GMC complaints department can investigate doctors working in the UK. During the COVID-19 emergency they may take longer to investigate your complaint, or they may not be able to investigate it now. They will let you know if this is the case.

Complaints about a dentist

Contact the General Dental Council (GDC) (**020 7167 6000**, [gdc-uk.org](https://www.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**, [nmc.org.uk](https://www.nmc.org.uk)). If necessary, they 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 HCPC's Fitness to Practise Department (**0800 328 4218**, [hcpc-uk.org](https://www.hcpc-uk.org)). They have a register of certain health professionals and can investigate complaints if it is about a profession they regulate.

10. 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 your local adult social services team and/or the police.

If you are experiencing, or are at risk of experiencing, abuse or neglect, contact adult social services with your concerns. They must respond if your care and support needs mean you are unable to protect yourself against the abuse. The council will work with you to find out more information and discuss ways to resolve the situation. They may need to start a safeguarding enquiry. This could be a conversation or a more formal course of action involving other agencies.

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.



Good to know

If you wish to speak to someone in confidence about suspected abuse, you can contact Hourglass (**0808 808 8141**, wearehourglass.org) or an independent advice service such as Independent Age (**0800 319 6789**, independentage.org).

You may also want to get support from an independent advocate (see section 4).

11. 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

The Local Government and Social Care Ombudsman

During the COVID-19 emergency, the Local Government and Social Care Ombudsman (LGSCO) (**0300 061 0614**, lgo.org.uk) suspended existing casework and stopped taking on new complaints. As of 29 June 2020, they began taking on new complaints and starting up their casework. Visit their website for further updates.

The LGSCO is independent and impartial, and can investigate complaints about local councils. This can include the work of social services departments. The LGSCO can also investigate complaints from people who arrange or pay for their own care, whether in their own home or in a care home, as long as the care home is registered with the Care Quality Commission.

You have to have used the council's or the care provider's own complaints procedure first, but if this is taking longer than 12 weeks it's worth considering contacting the LGSCO about this delay. They may step in to help sort this out. They can't investigate a complaint if you're taking other legal action relating to the issue.

You will have to persuade the LGSCO that, even though the council or care provider has looked into your complaint, they should also do so. They will only investigate where the issue has resulted in an injustice or harm to you. It's useful to include any evidence you have to show this. They don't have to take on your complaint if they have good reasons for not doing so.

You usually need to make your complaint within 12 months of the initial problem, unless there are special reasons for not doing so.

If the ombudsman finds your complaint is justified, they will write a report recommending what the organisation should do to put things right.

The Parliamentary and Health Service Ombudsman

Between 26 March 2020 and 30 June 2020, the Parliamentary and Health Service Ombudsman (PHSO) ([0345 015 4033](tel:03450154033), ombudsman.org.uk) stopped taking on new health complaints or progressing with existing cases that required contact with the NHS due to the coronavirus pandemic. As of 1 July 2020, the PHSO began accepting new health complaints and progressing with all existing cases. If you missed out on the 12 month limit because you were unable to take your complaint to PHSO between 26 March and 30 June, you can still make a complaint within two months from 1 July and it will still be treated as having been made within the 12 month time limit.

The PHSO is independent of the NHS and government and can investigate complaints about NHS services. The 'rules' are basically the same as those that apply to the Local Government and Social Care Ombudsman (see above). They can't deal with complaints about private healthcare unless it was funded by the NHS.

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](https://www.gov.uk/government/organisations/department-of-health).

12. Taking legal action

When you might want to consider legal action

You might want to consider taking legal action if:

- you're unhappy with the way a decision about your care has been made – you may want to consider starting judicial review proceedings
- you've been injured as a result of a mistake made in your care or treatment – you may want to consider legal action to claim compensation (known as 'damages') for harm caused by negligence
- you've been discriminated against – contact the Equality Advisory and Support Service for advice (**0808 800 0082**, equalityhumanrights.com/en/contact-us/equality-advisory-and-support-service)
- your human rights have been breached – you may need to seek legal advice.

You do not need to have made a complaint before taking legal action.

If you want to explore the options available to you, call our Helpline on **0800 319 6789** to arrange to speak to an adviser.

Getting legal advice

You may be able to get free legal advice under the Legal Aid scheme. This is means-tested. The rules around who is eligible are complicated, so speak to a legal adviser who specialises in this area or contact Civil Legal Advice (**0345 345 4345**, gov.uk/civil-legal-advice).

You can search for a specialist legal adviser who does legal aid work at find-legal-advice.justice.gov.uk. Put in your postcode and select 'community care' as the category of law.

If you don't qualify for legal aid, 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**, dls.org.uk).

Judicial review

A judicial review is a type of court proceeding where a judge looks at whether a public body, such as a council or a hospital trust, has applied the law correctly and followed the right procedures when making its decision. In other words, it's a challenge to the way a decision was made rather than the outcome.

For example, if the council decides it will only spend a fixed amount of money on your care, this could be unlawful because the Care Act says the council must meet your eligible needs however much it costs. Similarly, it may be unlawful if your council has assessed you as needing support in a certain area of your life, but it does not provide suitable support to meet your needs in that area.

A judicial review can be an 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 or whether it might be a good idea to use the complaints procedure instead.



Good to know

If you're considering judicial review, you need to act quickly. If court proceedings are necessary, they must be started within three months of the decision or action you wish to challenge. The court will sometimes give permission for you to bring a later claim.

Getting started with a judicial review

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 should respond within a set time limit. In some cases, a letter before action is enough to sort it out.

If your case is urgent, you can apply to the court to fast track it. You can also ask the court to order the council to act (for example, to put services in place) while you are waiting for the case to go through the court process.

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).

Negligence claims

Clinical negligence can occur when someone involved in your healthcare provides you with treatment that is below an acceptable standard, which 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. It is also possible to make a claim on behalf of someone who doesn't have the mental capacity to do so themselves, or when someone has died.

Generally, 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. The time limits vary in different circumstances, for example when the claim is being made on behalf of someone who does not have the mental capacity to make a claim on their own.



To do

For advice about whether clinical negligence has taken place and what to do next, contact Action against Medical Accidents (AvMA) (**0845 123 2352**, [avma.org.uk](https://www.avma.org.uk)).

If you do decide to take legal action and need to find a solicitor specialising in clinical negligence, AvMA can help or you can contact the Law Society (**020 7320 5650**, [solicitors.lawsociety.org.uk](https://www.solicitors.lawsociety.org.uk)).

Sometimes it is possible to make a negligence claim against a council for the way it has carried out its social services responsibilities. Contact the Law Society to find specialist legal advice. As this type of claim is less common, it is particularly important you check whether a solicitor has experience of your kind of case.

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

Thank you

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