AIMS For a better birth...

Birth Activists Briefing: Making a complaint about NHS services

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By the AIMS Campaigns Team

The procedure for making a complaint about NHS services differs slightly in each of the nations of the UK. In general, there are three stages:

- Raising the issue informally with the care providers or a more senior member of staff. In the case of maternity services this might be the Director/Head of Midwifery, or a Consultant Midwife if the Trust/Board has one.
- Making a formal complaint
- Requesting a review by the relevant Ombudsman (who is appointed by the Government to look into complaints about the health service.)

Before raising a complaint it is often helpful for the person concerned to request a copy of their maternity notes and any other personal information that the Trust or Board holds about them. Under the General Data Protection Regulation anyone has the right to make a "Subject Access Request." There is more information about what to include in your request here and a link that you can use to make an online request here.

It may also be helpful to contact an independent advocacy service for information and support before making a complaint. (See individual country sections below.)

For more information about making a complaint see our book AIMS Guide to Resolution After Birth

If the complaint concerns an individual member of staff there is the option of complaining to their professional body. For midwives this is the Nursing and Midwifery Council (NMC) and for doctors the General Medical Council (GMC).

Some people may want to consider taking legal action as well or instead of making a complaint. A solicitor who is accredited in medical negligence work should be able to advise whether there are grounds for a legal claim.

The AvMA (Action against Medical Accidents) has a series of self-help guides which cover the processes for making a complaint or taking legal action in each of the four nations of the UK, as well as ones on raising concerns about a healthcare worker.

AvMA should be able to help if someone wants to consider taking legal action. They have a register of AvMA accredited specialist medical negligence solicitors and a Helpline.

England

The NHS Constitution for England lists the rights that complainants have.

This webpage How to complain to the NHS explains the process.

Complaints can be made directly to the service provider (e.g. a hospital trust) or to the local Integrated Care Board (ICB),[1] which is the body that commissions the service, but not to both. ICBs have taken over the commissioning role formerly performed by Care Commissioning Groups (CCGs.) This website lists ICBs Find your local integrated care board (ICB).

Every organisation that provides NHS services is required to have a complaints procedure. Ideally this should be made available on their website and/or on posters in waiting-rooms and reception areas, but sometimes it's necessary to ask for a copy. The ICB should also have a complaints procedure on their website.

Most hospital trusts have a Patient Advice and Liaison Service (PALS) details of which can be foundhere. These are intended to offer "confidential advice, support and information on health-related matters" including the complaints procedure. They may also be able to help deal with an issue informally without the need for a formal complaint. There are also a number of independent health complaints advocacy organisations such as The Advocacy People, VoiceAbility and POhwer that offer free advocacy services to help people to make a complaint. Different organisations serve different parts of England so check which operate in your area.

There is normally a time limit of 12 months for making a complaint, but it is possible to do it later if there was a valid reason for not meeting the deadline. This could be the case if someone was so traumatised by their experience that they could not face revisiting the event any sooner.

Anyone who makes a complaint has the right to receive an acknowledgement and the offer of a discussion about the handling of the complaint within 3 working days of it being received. This may include a discussion of the timeframe for dealing with the complaint.

Whilst the complaint is being investigated the complainant should be kept informed of progress and if there will be any delay in providing the response. The response must be in writing and set out "the findings and, where appropriate, provide apologies and information about what's being done as a result of your complaint. It should also include information about how the complaint has been handled and details of your right to take your complaint to the relevant ombudsman."

The Parliamentary and Health Service Ombudsman makes final decisions on unresolved complaints about the NHS in England. They can be contacted on 0345 015 4033 or via their websiteWelcome to the Parliamentary and Health Service Ombudsman

. Note that the Ombudsman will not investigate a complaint until the local complaints process is complete, and now say they "will only look further into the more serious complaints about the NHS." This means that they won't consider things like delays in responding to a complaint.

Scotland

A person's rights to give feedback or complain are set out in The Charter of Patient Rights and Responsibilities (revised June 2022).

There are three stages to the complaints process.

Stage 1 Early resolution

NHS Feedback, complaints and your rights | NHS inform suggests "If you can, first talk to a member of staff involved in your care. If you do this, they can try to sort out your complaint on the spot. If you can't or you do not wish to do this, you can ask to speak to:

- a senior member of staff, or
- the Feedback and Complaints Officer for the NHS organisation involved

If you prefer to complain in writing rather than in person or over the phone, you can send a letter or an email to the relevant NHS organisation."

The organisation should provide an answer within 5 working days of them receiving the complaint.

Each Health Board has a team that works with patients, their families or carers to try to resolve complaints. These have different names in different Boards but the department name and contact details for each area can be found on this webpage Making a complaint about your NHS care or treatment.

Stage 2: Investigation.

If the complainant is not satisfied with the response, they can make a Stage 2 complaint. They can also go straight to stage 2 if they think the issue requires a detailed investigation.

The organisation should send an acknowledgement within 3 working days, then within 20 days either a response about their decision or an explanation of the delay and a revised time frame.

Stage 3: Ombudsman

If not satisfied with the response to a Stage 2 complaint the complainant can appeal to the Scottish Public Services Ombudsman (SPSO) Post: Freepost SPSO Freephone 0800 377 7330 or call 0131 225 5300 Email: ask@spso.org.uk Website: www.spso.org.uk Online form: www.spso.org.uk/contact-us. If they decide to take on the case a complaints handler is appointed to investigate and give a reply. The decision of the SPSO is final.

The Patient Advice and Support Service (PASS) is an independent service, delivered by the citizen's advice network. It "advises those who wish to raise concerns, make a complaint, and give feedback or comments about an NHS treatment or service." It does not provide legal advice but "PASS Advisers provide free specialist support, both via our advice line and through face-to-face appointments in local citizens advice bureau." www.patientadvicescotland.org.uk 0800 917 2127. They can help someone to prepare a complaint and support them through the process.

Wales

The process for raising concerns or complaints in NHS Wales is called 'Putting Things Right'. There is an information leaflet about the process available here. It suggests first talking to the staff involved but "If this does not help, or you do not want to speak to the staff, you can contact the health board or trust's complaints team." There are links to each Health Board's complaints information on this webpage NHS Wales complaints and concerns: Putting Things Right and these give details of how to raise a complaint. Often, they have a form to complete but it's not essential to use these.

Once a complaint has been received by the complaints team, they are expected to acknowledge it within two working days and respond to the majority within 30 working days. If they cannot respond within that time they should explain why and say when they will respond.

If the complainant is not happy with the response, they can request a review by the Public Services Ombudsman for Wales 0300 790 0203 www.ombudsman-wales.org.uk

Llais Wales is an independent advocacy body "which provides free and confidential complaints advocacy and support." Telephone: 02920 235558 Email: enquiries@llaiswales.org Contact details for local Llias teams are here.

Northern Ireland

The process is set out in the NI Department of Health's document Guidance in Relation to the HSC Complaints Procedure - April 2019. This states that "The HSC Complaints Procedure has been developed around four key principles:

- openness and accessibility – flexible options for pursuing a complaint and effective support for those wishing to do so
- responsiveness – providing an appropriate and proportionate response
- fairness and independence – emphasising early resolution in order to minimise strain and distress for all
- learning and improvement – ensuring complaints are viewed as a positive opportunity to learn and improve services."

Each local Health and Social Care Trust has a Complaints Manager whose role includes advice and

assistance with the complaints process. Information about these should be freely available (e.g. on a website) but there is a list of the contact details for each Trust at the bottom of thiswebpage. The Complaints Manager or their team can assist a complainant to put their complaint in writing. Alternatively, complaints can be made directly to a care provider to a senior member of staff or the Chief executive of the Trust.

The Patient Client Council is an independent public body that offers advice and information about the complaints process by phone or email as well as advocacy services to help people with all the stages of informal or formal complaints, including making a submission to the ombudsman. Their service is independent, confidential and free, so they may be a good first port of call.

A complaint to a Health and Social Care Trust should be acknowledged within two or three working days of being received, and a full response should be provided within 20 working days. If the complaint will take longer to investigate, the complainant should be told and given an explanation of why this is.

If the complainant is not satisfied with the response they can refer it to theNorthern Ireland Public Services Ombudsman (NIPSO). This can only be done once the Health and Social Care Trust has provided a response.

We hope that this information is useful to anyone who wants to make a complaint or is supporting someone who wishes to do so. The AIMS Helpline (helpline@aims.org.uk) can also provide information and support for making a complaint about the maternity services, although we cannot make a complaint on your behalf.

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[1] Editor's note: Integrated care boards (ICBs) replaced clinical commissioning groups (CCGs) in the NHS in England from 1 July 202