Complaints to the NHS and how to make them

Every patient in England has the right to make a complaint about NHS services. You are guaranteed this by the NHS Constitution.

In this factsheet we take you through the process for complaints about NHS Maternity care in England.

If you live in Scotland, Wales or Northern Ireland you also have the right to complain. The way you make a complaint varies slightly between countries. This factsheet includes links to organisations who can help you.

Everyone who uses the NHS has the right to complain about the service.

3 Key points about a complaint to the NHS

- Most complaints should be made within 12 months of the treatment you are complaining about. (It is possible to extend this time limit depending on how much time has passed and the reason for the delay).

- You can ask to see your healthcare records before you complain.

- It is sometimes helpful to make notes of what happened as soon as you can.

How do I make a complaint and what happens if I do?

Key steps:

Step 1: Be clear on what you want to complain about

Step 2: Be clear on who the complaint is about

Step 3: Gather helpful information

Step 4: Start to write out your complaint story

Step 5: Choose who can help and support you to write and send your complaint

Step 6: Send off your complaint by post or email

Step 1: Decide what to complain about

What can you complain about?

Be clear on what poor treatment/poor behaviour/poor communication you want to complain about.

You have the right to receive care that is personalised to your specific health circumstances and to always be treated with dignity and respect when receiving NHS care. If this does not happen, you have the right to make a complaint.

You can complain if you feel like any of your human rights, including your right to give or withhold consent, in pregnancy and

birth were not respected: Human rights in maternity care: the key facts - Birthrights

Here are some common issues that people ask Birthrights if they can make a formal complaint about:

You can complain if you have been spoken to by staff in a disrespectful, insensitive, or discriminatory way.

You can complain if you were denied adequate pain relief.

You can complain if any procedure was done to your body or if anyone touched or examined your body without you giving your informed consent to that happening.

You can complain if you were told that you needed certain treatment or a certain procedure and no-one explained the material risks and benefits of that treatment/procedure to you.

You can complain if you were made to feel that you just had to agree to/go along with a procedure/treatment or examination that you did not want to happen.

You can complain if staff did not listen to your choices, if they ignored you when you tried to ask for help, or if staff not introduce themselves respectfully when they entered the space where you were receiving care.

You can complain if you were left in undignified, degrading or unsanitary conditions within a hospital or unit.

You can complain if your data has been shared without your consent.

You can complain if you were wrongly referred to another agency or organisation for no evidence-based lawful reason.

It is ok to make a complaint and raise a concern even if you think what happened to you was minor or no serious harm was done.

Telling the health services what you thought of your care can help improve care for others in future and can contribute to a learning culture within the NHS.

Step 2: Be clear on who you will complain about

You can make your complaint to the GP practice, NHS Trust or Health Board that was responsible for your maternity care. You can also complain to an ambulance service.

You can also complain about an individual member of healthcare staff to the NHS Trust or Health Board or GP Practice which employs them. This should be the starting point for any complaint about the NHS.

You can also complain about an individual member of healthcare staff to their professional regulatory organisation. This is the Nursing and Midwifery Council (NMC) for midwives, and the General Medical Council (GMC) for doctors.

Professional bodies such as the NMC usually expect the NHS Trust or Health Board or GP surgery that employs the person you are complaining about, to try to resolve the issue before they get involved.

You can complain to the Integrated Care Board that commissioned (paid for) the maternity care that you received in England. This is especially relevant if your complaint is about policies or the treatment or service provided, or about the lack of a service provided (such as a closed home birth service or closed birth centre)

rather than the way an individual healthcare professional behaved.

There are also other groups and organisations that you can share your complaint with if you want to. We list those other organisations at the end of this factsheet.

Step 3: Gather helpful information

Bring together any information that you need to make your complaint. This could include:

- notes, voice notes or emails that you have made about your maternity care experience,
- notes from your birth partner,
- any emails that you have exchanged with healthcare professionals as part of planning for your care.

If you are thinking about making a complaint, it can be helpful to make a note of what happened and how you felt as soon as you can. You could also ask anyone who was with you to write down what they saw or heard and to give you a copy.

You can also get a copy of your and your baby's maternity records or general health records. Our factsheet here on how to access your records can help. Our advice team can also help to explain how to request your records.

Some people find it very helpful to also have a look at any national guidance or NICE guidance on the issue you want to complain about (e.g. caesarean birth or induction). If this feels too difficult or overwhelming to do, Birthrights' advice team can help you to find relevant guidance and legal information to look at and to potentially use in your complaint.

Step 4: Start to write out your complaint story.

You can start to make notes or write out your story:

- On a note or draft email on your phone,
- On a piece of paper
- On an online document if you have a computer or laptop

Important things to include:

- As much detail as you can remember, in the order in which it happened.
- What the hospital or member or staff did or said that was wrong.
- Give the names of the people involved in your care if you can.
- What impact it has had on you – how did it make you feel?
- Do you have any ongoing emotional or physical challenges because of the poor treatment?
- Are you a person who faced additional challenges using NHS services (for example do you live with a disability, do you have previous trauma, is English not your spoken language, or are you more at risk of harm from maternity services). You may want to include this about yourself in the complaint.
- If you are from an ethically minoritised group within the UK, you can include this in your complaint, especially if you feel that racism, including wider policy-based or institutional racism, or discrimination, were part of the issues that you faced.
- What do you want the Trust/hospital/staff to do to put things right? This could include a personal apology, training for staff members, or a review and change to a policy or guideline.

If you are only able to make short notes this is still a good start. Especially if you cannot write lots of words in the English language.

It is useful to number the points you make in your complaint. This will help you check that the Trust/GP has answered every point you raise.

Step 5: Get help and support to write and send your complaint if needed

Who can help me?

Birthrights' free and confidential email advice service

- We help anyone who needs advice about their rights during pregnancy and childbirth.
- We can give you practical advice on making a complaint.
- We can give you legal information about your rights to include in the complaint.
- We can read your complaint letter before you send it and make suggestions on how you organise your key written points.
- Our advice team can draft the complaint letter for you if you do not write many words in English, or if you are a member of a community more at risk of harm from NHS maternity care.

  Contact Birthrights' advice service via our contact form.

Our advice service is over email and currently we can only offer information and practical advice in English.

Support from the NHS

Your local NHS Trust will have a complaints team and information about how to make a complaint on its website. The complaints team is often called the Patient Advice and Liaison Service (PALS) team but might also be called their patient experience team or their Patient support team.

Each area in England has a free NHS Complaints Advocacy service that can help you make a complaint, which is independent from the hospital. You should be able to find out who this is in your area by asking your local Healthwatch (which is an independent "consumer champion" for health and social care), or the Trust's Patient Advice and Liaison Service (PALS) team.

If you are in Wales, Scotland or Northern Ireland you can ask:

- Your local Community Health Council in Wales
- The Patient Advice and Support Service (PASS) in Scotland, or
- The Patient and Client Council in Northern Ireland.

External Advocacy charities

Advocacy charities offer free help and support with making complaints to the NHS, sometimes the advocates are able to attend meetings with you.

Examples of free advocacy charity are: POhWER and The Advocacy People.

Doulas, Independent Midwives and Independent Advocates

Some doulas, independent midwives and independent maternity advocates are able to offer a complaint support service to support you with drafting and sending your complaint. They may also be able to attend meetings with you. These practitioners are sole small businesses so there will be a fee for the service.

Step 6: Send your complaint to the Trust, Health Board, or GP's complaints service or team.

- Make sure you have read through your complaint before you send it off
- You can ask Birthrights advice service to read the complaint before you send it
- You can send your complaint by email or by post
- You can copy us at Birthrights into your complaint email (please use advice@birthrights.org.uk)
- Address your complaint to the Patient Advice and Liaison Service (PALS) or to the complaints team, or to the Chief Executive of the NHS Trust.
- You can also send a copy of your complaint to the Head of Midwifery, the Director of Women's Services, the Director of Nursing, and/or the consultant responsible for your care.
- The email and postal address to send your complaint to will be on the Trust or GP's website under a heading called: "concerns and complaints" or "contact us" or "feedback".

What is the NHS complaints procedure?

The NHS must follow a statutory complaints procedure. This sets out in law exactly what it must do when you make a complaint.

NHS complaints policy and patient guidance sets out what happens.

NHS Trusts also have their own local procedures. These are based on the statutory procedure. Your local Patient Advice and Liaison Service (PALS) should be able to give you a copy of the NHS Trust's complaints procedure and contact details.

Key points about the NHS complaints procedure:

- The NHS Complaints procedure sets out timescales for the NHS to follow.
- The NHS should acknowledge your complaint in three working days.
- The NHS should offer to discuss with you how they will handle your complaint.
- The NHS should also discuss how long it will take them to answer your complaint. If they cannot answer it within six months they must tell you why.
- You should receive a written response to your complaint.

These timescales are slightly different in Wales, Scotland, and Northern Ireland.

NHS bodies must investigate all complaints properly and efficiently. They must keep you informed about the progress of the investigation. You have a right to know what the investigation found.

You may be invited to a meeting at the hospital, surgery or clinic to discuss your complaint. You can ask for the meeting to be held at your home or somewhere neutral, if that would make you more comfortable. It is a good idea to take someone who can be your advocate, and who was not involved in your birth with you to any meeting. If you do not feel safe or comfortable attending a meeting about your complaint, you can decline and say no.

The NHS body should respond to your complaint in writing. The body must usually send its response to your complaint within six months of you making the complaint. If they will not be able to do this, they have to tell you why.

They should explain how they looked at your complaint, who they spoke to, what information they read, and what conclusions they reached. They should tell you if the care provider plans to take any action because of your complaint. For example, they could take disciplinary action against staff or change their policies or the way they work.

If the care provider accepts that they made mistakes in your care, they should apologise.

You cannot be offered compensation through the NHS complaints process.

Is there a time limit for making a complaint against the NHS?

You should normally make a formal complaint within 12 months of the treatment you are complaining about. This is set out in the NHS complaints procedure.

The deadline can be extended if you have good reasons for not complaining within the time limit (for example due to birth trauma) and it is still possible to investigate the complaint fairly and effectively.

If you discover a new reason for making a complaint after 12 months have passed, for example if you find out a new piece of information relating to your care, you can ask if the Trust will still investigate your complaint.

Trauma about your experience of maternity services could mean that you could not make your complaint within 12 months. Try to stay as close to the time limit as possible. The more time that passes,

the harder it can be to investigate a complaint as memories fade and staff and policies change over time.

You could write to the care provider before the 12 months is over to tell them that you plan to make a complaint when you are well enough.

What if I'm not happy with the answer to my complaint?

If you are not happy with the way the NHS body answered your complaint in England, you can refer it to the Parliamentary and Health Service Ombudsman. You should do this within 12 months of receiving your response from the NHS.

The Ombudsman is independent. It does not have punitive powers, but it can make strong recommendations which a Trust must not ignore.

The Ombudsman will usually only accept a complaint about a very significant issue (such as a breach of human rights or a lack of consent or not following the NHS Complaints process). They will also only accept a complaint if you and the NHS organisation have not been able to resolve your complaint.

If you are unhappy with the way that the NHS body handled and investigated your complaint including unreasonable delays or losing your maternity notes, you can include this in your complaint to the Ombudsman.

In Wales it is the Public Services Ombudsman. In Scotland it is the Scottish Public services Ombudsman. In Northern Ireland is it the Northern Ireland Public Services Ombudsman.

Other key questions about complaints

What should I do if I'm pregnant and worried about my maternity care now?

If you have concerns about your maternity care before you give birth, talk to your midwife or doctor as soon as you can about the concerns and ask for their support.

If you still need help, you can contact the Head or Director of Midwifery and ask for their help and advocacy.

You can contact the Patient Advice and Liaison Service (PALS) or the Patient support service (Scotland) and ask them to forward your complaint or concern to the Head of Midwifery as soon as possible. This can be done urgently if you are in the last few weeks of pregnancy.

Birthrights' free and confidential email advice service helps pregnant people and healthcare professionals who need advice about rights in maternity care at any stage of pregnancy.

Contact us via our contact form.

I have been asked to a Birth Reflections service – what is that?

In some areas, NHS midwives run a 'Birth Afterthoughts' or 'Birth Reflections' service. You have the opportunity to go through your maternity notes and experience with a midwife, and they will try to answer any questions you have.

Birth Afterthoughts services also give NHS Trusts a chance to resolve some questions about what happened and what they did wrong. This might mean that you decide not to make a formal complaint.

There is currently no national guidance on how a birth reflections meeting is organised or offered, so you have every right to ask questions about what will happen.

If you do not feel comfortable attending a birth reflections session, you can decline and say no.

You may want to access your maternity records and look at them yourself or with a support person before attending a birth reflections meeting.

You can take a supportive person with you to a birth afterthoughts or reflection session.

Your local Patient Advice and Liaison Service (PALS) or maternity unit should be able to tell you if there is a Birth Afterthoughts or Reflections scheme in your area.

I'm not sure if I want to make a complaint. How can I also provide feedback more generally to the NHS Trust or Health Board?

If you want to help improve maternity care at your Trust or Board, you have various options.

- You can talk to your local Maternity and Neonatal Voices Partnership (MNVP) or Maternity Services Liaison Committee (MSLC). This is a group who work together to improve local maternity care. The MNVP or MSLC should include people who

have used maternity services in the last 5 years, as well as midwives, doctors, commissioners and local representatives from maternity health charities or from non-profit maternity community groups. You can provide feedback to them about your experience. If you want, you can also get involved in the work they do to improve services. You should be able to find out how to contact them on your Trust's website. The National Maternity Voices organisation has a map with details of local MNVPs and MSLCs.

- You can provide feedback about your care to a healthcare regulator. In England, this is the Care Quality Commission (CQC). This is different to making a formal complaint (which must be made through the routes described above) and you may not receive a personal response, but your feedback should be considered when the regulator makes assessments as to the quality of care provided by that service, and when they make recommendations for improvements.
- You can contact Healthwatch, who are an independent statutory body and a "consumer champion" for health and social care. Their role is to collate the experiences of people in health and social care to inform commissioners of services as to what the public needs and wants. They also signpost people to information about NHS and social care services.

How do I tell the government how bad my maternity care was?

If you feel that any part of what happened to you is connected to the current crisis of staffing for the NHS, or to a lack of support or funding for a certain maternity service, or to a lack of mandatory training in certain subject matters/legal rights within the NHS, you can also consider sharing your complaint with your local MP, Member of Senedd (Wales), Member of Scottish Parliament (MSP) or Member of the Legislative Assembly (Northern Ireland).

You may also want to copy into your complaint the Health Minister for your nation.

They Work for you provides helpful information on who your government and regional legislative representatives are.

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Can I take legal action?

If you feel that your complaints have not been listened to or properly dealt with, you can take legal advice from a solicitor on whether you might have a successful legal claim.

A court will expect you to have complained to the NHS body before you start legal action. You must have tried to resolve the complaints with the NHS first.

There are time limits for taking legal action:

- A claim under the Human Rights Act must be brought within 12 months of the infringement of the right(s).
- A claim for personal injury by or on behalf of the person who gave birth must be issued within three years of the birth.
- A child will usually be able to make a legal claim until their 21st birthday.
- If a child does not have the mental capacity to make a claim there is no time limit for making a claim.

It is important to know that the Parliamentary and Health Services Ombudsman will not look at your case at the same time if you are taking legal action.

Where can I find help with taking legal action against the NHS?

Legal action can be expensive and you may not recover all of your costs. You should seek independent legal advice before starting a claim.

Many solicitors' firms offer a free legal assessment of personal injury or medical negligence claims. You can find a solicitor at https://solicitors.lawsociety.org.uk/.

A solicitor who offers a free assessment will want to know what happened to you. They will be looking to assess whether the care you received was negligent, what damage was done to you, and whether they can show a link between any negligent care and the damage.

Some solicitors may offer to take cases on a 'conditional fee agreement'. This is sometimes called 'no win, no fee'. A solicitor will be able to discuss what it means and whether this is an option for you.

The following organisations may also be helpful:

- Action against Medical Accidents is a charity that promotes better patient safety and justice for people who have suffered avoidable harm. It offers free and confidential advice and support, including a helpline. It also offers more detail on options for funding legal costs including conditional fee agreements.
- Citizens Advice also offers guidance on taking legal action and on making a complaint about care.
- NHS Resolution (formerly the NHS Litigation Authority) provides information on how negligence claims are handled.