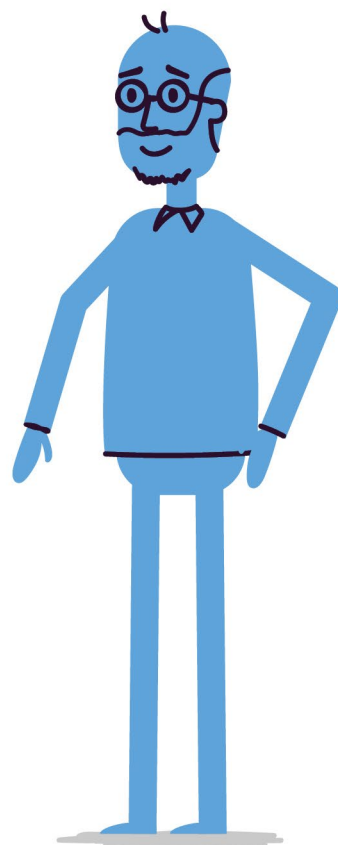
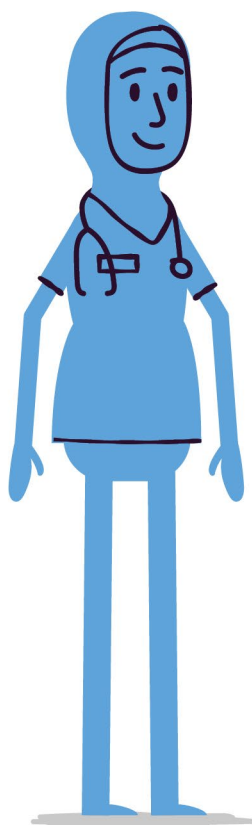


Independent NHS complaints advocacy, and other specialist advice and support for people raising complaints



1. Introduction

1.1 This is part of a series of guidance modules that will help you implement and deliver the expectations set out in the NHS Complaint Standards.

1.2 It will help you understand:

- the different types of support available to people who make a complaint about their (or another person's) NHS care and treatment, including:
 - independent NHS complaints advocacy
 - specialist independent advice and support services
- the aims of these different services and when and how to signpost people to them
- the value of involving an advocate or specialist advice service and how they can help people who are facing difficult decisions - particularly where there are other processes that may be an alternative to, or run in parallel with, a complaint.

1.3 You should read this module alongside the [Model complaint handling procedure](#) and the following modules:

- Making sure people know how to complain Identifying a complaint
- Who can make a complaint - consent and confidentiality
- Early resolution
- A closer look - clarifying the complaint and explaining the process
- A closer look - carrying out the investigation
- A closer look - providing a remedy
- A closer look - writing and communicating your final response
- Referring people to the Ombudsman
- Complaints involving multiple organisations
- Complaints and other procedures

The guidance modules are available on the Ombudsman's [website](#).

2. Standards and relevant legislation

2.1 The relevant Complaint Standards expectations are:

Welcoming complaints in a positive way

- Organisations clearly publicise how people can raise complaints in a range of ways that suits them and meets their specific needs. They make it easy for everybody to understand how the process works. This includes being clear about who can make a complaint and what will happen next.

- Organisations make sure people know how to get advice and support when they make a complaint. This includes giving details of appropriate independent complaints advocacy and advice providers, any Patient Advice and Liaison service (PALs), and other support networks.
- Organisations regularly promote their wish to hear from their service users and show how they use learning from all feedback (including complaints) to improve services.

2.2 The relevant Regulations that apply are:

- [The Local Authority Social Services and National Health Service Complaints \(England\) Regulations 2009](#) make clear at regulation 3 that your organisation ‘must make arrangements ... for the handling and consideration of complaints.’ The arrangements must ensure that: ... ‘complainants are treated with respect and courtesy’ ... that they receive ‘so far as is reasonably practical - assistance to enable them to understand the procedure ... or advice on where they may obtain such assistance.’

2.3 Relevant guidance:

Duty of candour procedure

- The Care Quality Commission guidance on the [Duty of candour](#) says that people going through the procedure should be given information about ‘available impartial advocacy and support services, their local Healthwatch and other relevant support groups, for example Cruse Bereavement Services and Action against Medical Accidents (AvMA)’.

Serious incident investigations

- NHS England’s [Patient Safety Incident Response Framework](#) recommends that patients/families involved in investigations are made aware of sources of independent advice and advocacy, including the national charity Action against Medical Accidents [AvMA](#).

3. What you should do

Independent NHS complaints advocacy

- 3.1 Independent NHS complaints advocacy is a free, independent and impartial service funded by local authorities. It can guide anyone who wishes to complain about their (or another person’s) NHS care and treatment through the process of complaining to the appropriate NHS organisation.
- 3.2 Everyone in your organisation who has a public-facing role needs to be aware of who your local independent NHS complaints advocacy provider is.

This will enable them to quickly tell someone who wishes to make a complaint about where they can get help and support if they need it. If you are not sure who your provider is, check with your local authority or local Healthwatch.

- 3.3 Ideally, if you do not have one already, you should establish a relationship with your local advocacy provider. They are a valuable source of information about the needs of your service users and your local population. They will also help you understand what their service offers, as services can vary from area to area. This will mean you are better placed to:
- provide correct information about the advocacy service to people who wish to make a complaint. This may include:
 - contact information that you can use to promote their service in any posters and information leaflets you have about your complaints process
 - leaflets from, or links to, the advocacy service that you can include in your acknowledgments, so that the independence of the advocacy service is clear
 - refer people who want to make a complaint for advocacy support directly, where this is appropriate
 - secure early resolution of complaints by making sure that people making a complaint are guided through the process and fully understand their options
 - help people who want to make a complaint access advocacy rapidly, so they are supported as early in the process as possible
 - shape local arrangements for advocacy, including working with commissioners.
- 3.4 Most NHS complaints advocates have the relevant advocacy qualification and all advocates are required to work in line with the Advocacy Charter. This ensures that they have a full understanding of the NHS complaints process.
- 3.5 NHS complaints advocates can also signpost and cross-refer people to other helpful advocacy and specialist support services.
- 3.6 The NHS complaints advocacy services can support anyone who needs to navigate the complaints process. There are no specific eligibility criteria. Wherever possible, they will facilitate self-advocacy in line with the empowering model of advocacy.
- 3.7 NHS complaints advocates have the right training to support people with specific needs or protected characteristics, or where they need to work alongside another organisation.

The value of involving advocates in the process

- 3.8 An independent NHS complaints advocate can provide support at any stage of a complaint, including at the very beginning. Their early involvement should mean that you receive a complaint in a form that is productive and easy to understand. The advocate will also:
- make sure that the complaint is directed to the right part of the NHS, which can sometimes be difficult to determine
 - explain the NHS complaint journey to the person making the complaint and help them understand what you are doing to investigate
 - act as mediator between the person making the complaint and you
 - support them until the process is finished, including support with the Parliamentary and Health Service Ombudsman (PHSO) procedures if needed.
- 3.9 It may also be helpful to involve advocacy organisations in providing independent facilitation to patient experience and patient participation groups in your organisation.

Specialist independent advice and support

- 3.10 Many people who complain are faced with difficult decisions - particularly where there are other processes that may be an alternative to, or run in parallel with, a complaint. This is common if the incident that gave rise to the complaint involves suspected avoidable harm or complex clinical issues. It is important to recognise the holistic needs of people who are considering making, or have made, a complaint in these contexts as they may need specialist independent advice and support.
- 3.11 Situations where people are likely to benefit from more specialist independent advice services include complaints where:
- harm has occurred and an independent view on the clinical aspects is needed
 - litigation is being considered or has been started
 - there is to be an inquest (or when a family wants one)
 - there has been a patient safety incident that requires implementing the duty of candour or conducting a serious incident investigation
 - there are potential fitness to practice issues involving health professionals which the person making the complaint wants to be investigated
 - the person making the complaint wants to raise patient safety concerns with regulators or commissioners of services
 - there are concerns about private treatment that is believed to have caused harm.
- 3.12 If a complaint appears to have any of these features, the person making the complaint should be given details of relevant support organisations such as the national charity Action against Medical Accidents (AvMA - see contact

sheet in the practical tools section) as well as those of your local advocacy provider.

- 3.13 People who have experienced trauma or bereavement may also benefit from counselling or mental health support, arranged either by your organisation or sourced independently.
- 3.14 People facing financial hardship may also need practical advice about benefits or other financial matters as well as support with their complaint. You should give them details of how they can get this support (see contact sheet in the practical tools section).

4. Examples and case studies

4.1 Case study one: The value of involving advocacy and advice services

Background

Mrs A died in hospital because of a nosebleed that caused choking. Her daughter, Mrs B, made a complaint because she felt that her mother's treatment had been inappropriate. Mrs B was not told about advocacy until she received the response to her complaint. Information about advocacy was given at the end of the letter, and incorrectly signposted to the previous provider of the service. The complaint response letter did not answer all the points Mrs B had raised, and she and the family continued to feel distressed about the way their mother had died.

Advice from independent specialist

Having seen Action against Medical Accidents (AvMA) on television, Mrs B got in touch with them. They explained their role and her various options, and she realised that litigation was not the route the family wanted to take. AvMA explained the role which advocacy could have in taking the complaint further and signposted her to the correct local provider.

Working with the local advocacy provider

Mrs B and her local advocate worked together to raise her outstanding concerns with the hospital. The advocate helped Mrs B to identify what she wanted to happen as a result of the complaint, and to articulate her views to the consultant in charge of her mother's care, so that a full investigation was carried out. This resulted in the case being referred to the Nursing and Midwifery Council, and a fitness-to-practice investigation was carried out. The advocate also signposted Mrs B to the local bereavement support service, as she had feelings of guilt about the way in which her mother had died.

The benefits

Advocacy empowered Mrs B and her family to navigate a complicated process and to reach a resolution which gave them the closure they needed on what had been a very distressing experience.

Lessons:

- people who wish to make a complaint should be signposted to the correct local NHS complaints advocacy provider at an early stage
- in cases where harm or death has occurred, the person making the complaint should be made aware of specialist advice and advocacy services such as Action against Medical Accidents (AvMA)
- if someone who is making a complaint appears distressed, consider signposting them to a local or national counselling or specialist mental health support service
- all advocacy and specialist advice providers are equipped to signpost and cross-refer to each other.

4.2 Case study two: The value of involving advocacy and advice services

Background

Mr C wanted to make a complaint after his treatment was stopped. This followed accusations that he had been verbally aggressive towards a clinical consultant. Mr C suffers from paranoid schizophrenia and has a learning disability that prevents him from being able to read and write.

Working with the local advocacy provider

After being signposted to his local advocacy provider and getting assistance from an advocate, Mr C was able to submit a letter of complaint and was then offered a local resolution meeting (LRM).

Following appropriate Covid risk management procedures, Mr C and his advocate were called into the meeting room and were introduced to the staff members present. Given Mr C's support needs (cannot read or write), his advocate made a request for the meeting to be recorded so it was accessible for Mr C, which the Trust agreed to do. Mr C was able to get all his points across during the meeting and felt listened to.

The benefits

As a result of the meeting, because of the length of time that had elapsed since Mr C was last treated, he was given an emergency appointment in a fortnight's time. Mr C was extremely happy, because appointments of this nature normally take months and, in some cases, even years to get.

Mr C thought the outcome was a great result and he disclosed that the meeting had given him a purpose to leave the house, which was only the second time he had done so in six months. The impact this would have had on Mr C if the meeting had been delayed until the Covid risk had

reduced would have been detrimental to his overall mental and physical wellbeing. In addition, if Mr C had attended on his own, he may have become frustrated and unable to communicate what his concerns/issues were and the impact this had on him.

Lessons:

- people who want to make a complaint should be signposted to the correct advocacy provider at the start of the process
- advocate involvement enabled the client to articulate feelings and wishes in a focused way despite the personal challenge of illiteracy
- the focused complaint letter provoked a swift response to the client's needs and meant the Trust could deal quickly with the complaint, resulting in a positive outcome and avoiding further missed treatment and a prolonged complaint process.

4.3 Case study three: The value of involving specialist advice services

Background

Mr D attended the accident & emergency department following a cycling accident. He was discharged with suspected bruised ribs but died that evening at home from a bleeding spleen. Mr D's parents were informed about the incident and the hospital launched an investigation under the duty of candour regulations as it appeared that its actions may have resulted in the death of their son. Mr D's parents had concerns about the treatment but were not sure what to do or whether they wanted to make a complaint. They discussed this with the hospital and were given the AvMA leaflet on the duty of candour.

Working with specialist support

Mr D's parents contacted AvMA and a caseworker was assigned to support them at a meeting to discuss the duty of candour investigation. The Trust explained, to the best of its knowledge, what had happened and promised to share the results of the investigation when completed. After discussion with the parents, the AvMA caseworker asked if the Coroner had been informed of Mr D's death and it transpired, they had not. The Trust did this, and the coroner decided to hold an inquest.

The Trust initially thought it could not share its investigation report with Mr D's family until after the inquest was held. However, after discussion with their AvMA caseworker, the parents challenged this and the Trust agreed to share the report with the family as soon as it was ready.

The AvMA caseworker reviewed the investigation report with the parents and recommended they have legal representation at the inquest and arranged for a barrister to attend on a pro bono basis. The inquest

concluded with a prevention of future deaths letter being issued to the Trust. The family decided not to take legal action or make a formal complaint but remained concerned about the actions of one doctor in particular. The AvMA caseworker helped them make a referral to the GMC, which agreed to investigate.

Lessons:

- concerns need to be taken seriously whether or not a complaint is made
- making patients/families aware of specialist independent advice services such as AvMA can help them play an active role in investigations and help inform decisions about which processes to follow
- in this instance, involving AvMA helped the Trust to manage a difficult situation appropriately and as a result, the family felt that a fair process was followed that avoided the need for them to make a complaint to the Trust or take legal action.

5. Practical tools

5.1 Please use the table below to determine when to refer and who to: Advocacy, advice and support overview.

5.2 Useful contacts:

Independent NHS complaints advocacy

Independent NHS complaints advocacy is commissioned at local authority level. The best way to find the service is to search for Local authority + NHS complaints advocacy on your preferred search engine or alternatively contact your local Healthwatch.

Action against Medical Accidents (AvMA)

AvMA is an independent charity that can provide specialist advice on clinical complaints involving harm, patient safety investigations, fitness to practise referrals, inquests, private healthcare complaints and legal action, including referral to specialist solicitors where appropriate.

Website: www.avma.org.uk

Helpline: 0845 123 2352 (Mon-Fri 10am-3.30pm)

The Patients Association

The Patients Association is a charity for all patients, regardless of health condition. Its helpline offers free and confidential information and signposting about the complaints process, and its website provides information leaflets, including on how to complain.

Helpline: 0800 3457115 email: helpline@patients-association.org.uk.

5.3 AvMA leaflet: The duty of candour and what it means for patients and their families [Duty of Candour](#)

6. Version control

6.1 Final - March 2023

When to refer and who to: Advocacy, advice and support overview

Advocacy, advice and support overview				
	Independent NHS complaints advocacy	Action against Medical Accidents	Mental health Services (inc. bereavement)	Debt, finance and benefits advice
Support provided	Impartial guidance throughout complaints process	Specialist medico-legal advice and guidance	Support to process and manage trauma related to the complaint	Support to navigate debt, benefits and financial hardship
Referral pathways	Engage with local authority to identify appropriate provider	Refer directly via contacts	Signpost to your local Improving Access to Psychological Therapies (IAPT) and/or bereavement support services for triage and assessment	Engage with local authority to identify appropriate provider
When to refer				
When someone is making, or considering making, a complaint about NHS-funded service.	X			
When someone is involved in a serious incident investigation		X		
When a duty of candour process is being followed		X		
When harm has occurred, and an independent view is needed		X	X	
When litigation is being considered, or has started		X		X
When someone has experienced trauma or harm			X	
When someone has died			X	X
When there is an inquest, or one has been requested		X		

When there are concerns about patient safety or fitness to practice		X		
When there are concerns about private treatment		X		

