

## Referring people to the Ombudsman in your final response

**This is draft material and is not live guidance. It is shared for information and will be tested with organisations who have agreed to pilot the new Complaint Standards.**

### 1. Introduction

1.1 This guidance is part of a range of guidance modules produced to help you implement and deliver the expectations set out in the Complaint Standards. [Insert link](#)

1.2 This module sets out the role of the Parliamentary and Health Service Ombudsman and explains how to refer people to the Ombudsman in your final response letters.

1.3 This guidance should be read in conjunction with the module on:

- Complaints and other procedures [Insert link](#)
- Independent NHS complaints advocacy, and other specialist advice and support for people raising complaints [Insert link](#)
- Writing the final written response [Insert link](#)
- Complaints involving multiple organisations [Insert link](#)

1.4 Further information about the work of the Ombudsman's office can be found on their website [www.ombudsman.org.uk](http://www.ombudsman.org.uk). If anything is unclear or you have any questions about the Ombudsman you can raise these with their Liaison Team [liaisonmanagers@ombudsman.org.uk](mailto:liaisonmanagers@ombudsman.org.uk).

### 2. Standards and relevant legislation

2.1 The relevant Complaint Standards expectation is:

- Giving fair and accountable decisions
  - Staff make sure everyone is told about their right to complain to the Ombudsman in the written final response to a complaint

2.2 The relevant Regulations that apply are:

- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009
  - The Regulations require at section 14 (2)(d) that, ‘As soon as reasonably practical after completing the investigation, the responsible body must send the complainant in writing a response, signed by the responsible person, which includes - ... details of the complainant’s right to take their complaint to the Health Service [Ombudsman] ...’

### **3. What you should do**

#### **The Ombudsman**

- 3.1 The Ombudsman is the final stage of the NHS complaints procedure in England. The Ombudsman makes final decisions on complaints that have not been resolved by the NHS in England and UK government departments and other public organisations. They do this fairly and without taking sides and the service is free.
- 3.2 It is important that, before approaching the Ombudsman, people complain to your organisation first and give you a chance to respond to their concerns. If a person does not accept this requirement, you should direct them to the Ombudsman’s website and helpline so that this can be confirmed. Every year lots of people complain to the Ombudsman too early and before they have had a final written response from the organisation. You can help people to know when the right time is to approach the Ombudsman by giving them information about this.

#### **Telling people about the Ombudsman’s service**

- 3.3 If someone isn’t happy with how your organisation has answered their complaint, they need to know they have a right to ask the Ombudsman to look into it for them.
- 3.4 You should explain the Ombudsman’s role in any information you give out about your complaints process. This includes on your website as well as in any leaflets or letters explaining how your organisation deals with complaints.
- 3.5 As required by the Regulations, when you give your final written response to a complaint, be clear that it is your final response and explain that if they want to take the matter further they can approach the Ombudsman. You will find an example paragraph for how to do this, and a link to an information leaflet about the Ombudsman, in the examples and practical tools sections below [[Insert Link](#)].
- 3.6 You should ideally let people know they need to put their complaint to the Ombudsman as soon as possible. There are time limits for complaining to the Ombudsman (12 months from the point at which the person became

aware they had something to complain about). Although the Ombudsman can sometimes make exceptions, you do not want people to miss their chance to get a final, independent decision on their complaint.

- 3.7 People can go to the Ombudsman's website to make their complaint. There is an online form for NHS complaints and a downloadable form for people who would prefer this. The Ombudsman can also take complaints over the phone and by email or letter if people prefer to complain that way. [More about the Ombudsman's complaint forms.](#)
- 3.8 You should also remind people of where they can access help, support and advice should they need it. See guidance on advice and advocacy [Insert link.](#)
- 3.9 If, on receipt of a complaint, the Ombudsman's Casework staff believe that there is more that could be done locally to resolve the complaint they may contact you to discuss this.
- 3.10 If the complaint is not about NHS funded care in England then you may need to signpost to another Ombudsman or Regulator. If you are at all unsure about who to signpost to there is information on the Ombudsman Association's website [www.ombudsmanassociation.org](http://www.ombudsmanassociation.org) about who can help. You can also use the Ombudsman's complaint checker at [www.ombudsman.org.uk](http://www.ombudsman.org.uk) or ring their Helpline **0345 015 4033** for advice.

#### 4. Examples

- 4.1 Example signposting paragraph for inclusion in your final written responses.
  - *If you're not happy with how we've dealt with your complaint, and would like to take the matter further, you can contact the Parliamentary and Health Service Ombudsman. The Ombudsman makes final decisions on complaints that have not been resolved by the NHS, government departments and some other public organisations. Their service is free for everyone. There is a time limit for making your complaint to the Ombudsman so you should do this as soon as possible. To take a complaint to the Ombudsman, or to find out more about the service go to [www.ombudsman.org.uk](http://www.ombudsman.org.uk) or call 0345 015 4033.*

#### 5. Practical tools

- 5.1 **Ombudsman leaflet:** This is for people who have completed the local complaints process and might want to take things further. You should give this to people when you send them their final written response to a complaint. You can download the leaflet from the Ombudsman's website: [How we can help you \(PDF 1.7MB\).](#)
- 5.2 **Care Quality Commission leaflet:** The CQC's powers under the Mental Health Act allow them to consider and investigate complaints in relation to care provided to those detained under the Act. They can look into

complaints from, or about, people who have been detained in hospital, or subject to a Community Treatment Order or Guardianship. However, the CQC's powers are discretionary and limited. They do not extend to reviewing any clinical decisions, including decisions taken around clinical judgment/opinion such as the decision to detain, diagnosis, prescribing of medication (when considered lawful to do so) and decisions to discharge from hospital/detention.



complaining\_about  
\_use\_of\_mha\_policy

- 5.3 Factsheet for NHS Organisations about the LGSCO/PHSO joint working team:  
<https://www.lgo.org.uk/make-a-complaint/fact-sheets/social-care/factsheet-for-nhs-organisations-about-the-joint-working-team>

## 6. Version control

- 6.1 Pilot Draft - March 2021