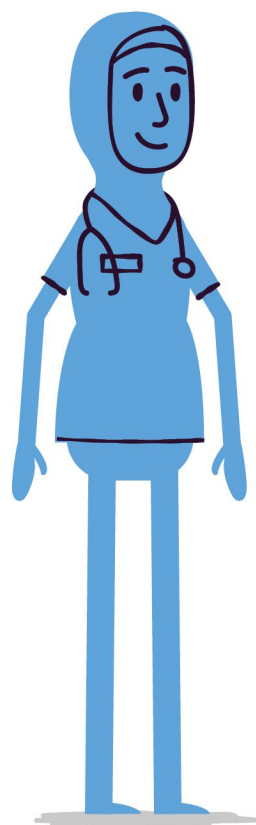


Referring people to the Ombudsman in your final response



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1. Introduction

- 1.1 This guidance is part of a range of guidance modules produced to help you implement and deliver the expectations in the [NHS Complaint Standards](#).
- 1.2 This module sets out the role of the Parliamentary and Health Service Ombudsman. It explains how to refer service users, and those who represent them, to the Ombudsman in your final response letters.
- 1.3 You should read this module alongside the [Model Complaint Handling Procedure](#) and the following modules:

- Complaints and other procedures
- Independent NHS complaints advocacy and other specialist advice
- Writing and communicating your final response
- Complaints about multiple service areas or organisations.

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

- 1.4 You can find more information about the work of the Ombudsman's office on their website: [Welcome to the Parliamentary and Health Service Ombudsman](#).

2. The Complaint Standards and relevant legislation

- 2.1 The relevant Complaint Standards expectations are:

Promoting a learning culture

- Senior staff make sure staff are supported and trained in all aspects of dealing with complaints, from identifying a complaint to issuing a response, so that they meet the expectations set out in the Complaint Standards. This should include how to manage challenging conversations and behaviour.

Giving fair and accountable responses

- Staff make sure they tell people about their right to complain to the Ombudsman if they are not satisfied with the written final response at the end of the organisation's complaint process.

- 2.2 The relevant Regulations that apply are [The Local Authority Social Services and National Health Service Complaints \(England\) Regulations 2009](#).
- 2.3 [Regulation 14 \(2\) \(d\) of The Local Authority Social Services and National Health Service Complaints \(England\) Regulations 2009](#) states 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 Parliamentary and Health Service 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. The service is free.
- 3.2 Before approaching the Ombudsman, people should complain to your organisation 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 they are complaining about. You can help people understand when 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 provide about your complaints process. This includes on your website and in any leaflets or letters that explain how your organisation deals with complaints.
- 3.5 As required by the Regulations, when you give your final written response to every complaint, you should explain that if the person who has complained wants to take the matter further, they can approach the Ombudsman. You should explain that the Ombudsman’s service is free to everyone and they can find out more by visiting the Ombudsman’s website at www.ombudsman.org.uk or calling 0345 015 4033. 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 of this module. You should also remind service users of where they can access advice, support and help to make their complaint if they need it. See the guidance on [Independent NHS complaints advocacy and other specialist advice and support](#).
- 3.6 You should 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 remind people of where they can access help, support and advice, should they need it. See the guidance on [Independent NHS complaints advocacy, and other specialist advice.](#)
- 3.9 If, after receiving a complaint, the Ombudsman's casework staff believe your organisation can do more 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 a regulator. If you are at all unsure about who to signpost to, there is information about who can help on the Ombudsman Association's website at: <https://www.ombudsmanassociation.org/>. You can also use the Ombudsman's complaint checker at www.ombudsman.org.uk or ring their helpline on 0345 015 4033 for advice.

4. Examples

- 4.1 Example of a signposting paragraph for inclusion in your final written responses:
 - If you're not happy with how we have dealt with your complaint, and you 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 in England, 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 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 the matter 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 the use of the Mental Health Act](#)



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 Final - December 2022