



Making a Complaint

This factsheet is intended to provide details of ways in which you can complain if you are dissatisfied with services you, or the person you care for, receive - whether they are provided by your local authority, NHS body, private or voluntary agency.

Why you may want to complain

There may be reasons why you are unhappy. The following are examples of the problems people might face:

- A request for an assessment has been refused with no explanation;
- A long delay between requesting an assessment and getting one;
- A long delay between getting an assessment and receiving a service;
- The social work department has decided not to provide a service although you have been assessed as needing it.
- You feel that someone has done something wrong or has treated you, or the person you care for, unfairly or rudely.
- You feel the service you, or the person you care for, uses is of a poor standard.
- The care or treatment you or the person you care for have received from the NHS.
- How NHS services in your local area are organised and how this has affected your care or treatment or that of the person you care for.

You may prefer to make your complaint informally to the person or service involved.

However, this factsheet focuses on the formal procedures for making a complaint.

SECTION 1

Local authority services

If you are not satisfied with anything about a community care assessment, your carer's assessment, the care provided, or the amount charged for the services, there are various ways in which you (and the person you care for) can complain. This includes not only services the local authority provides but also services provided by another organisation or agency that are funded by the social work department.

Using the local authority complaint procedure

Every local authority is required to have a procedure for dealing with complaints about social work services. If the person you care for is unable to make a complaint or asks you to make a complaint, you can do this on his or her behalf. You can also make a complaint on your own behalf, for instance, if you are unhappy about the way in which the social work department carried out your carer's assessment. Most local authorities will have a dedicated officer who The complaints procedure has three stages:

Stage 1 – the informal stage

This stage enables you to raise your concerns, on an informal basis, and gives the social work department the opportunity to try to resolve the problem. Although you can complain in person, or on the phone, it is better to write and keep a copy of the complaint. **You do not have to use Stage 1, so you may prefer to ask that your complaint is dealt with on a formal basis which is Stage 2 of the complaints procedure (see below).**

There is no set time limit for dealing with complaints at this informal stage. However, your local authority will have a published Complaint Procedure which should provide information on timescales. It is worth clarifying how long you will have to wait for a reply when you make your complaint.

If you are not satisfied with the way in which the complaint is resolved, the local authority should give you an explanation of the complaints procedure and ask you to put your complaint in writing if you wish to proceed to the next stage.

Stage 2 – the formal stage

If your complaint cannot be resolved informally, or if you choose not to use the informal stage, it will be dealt with formally. Your complaint must be put in writing. Social work departments have 28 days in which to investigate your complaint and send you a written reply. If the department wants to extend the time limit of 28 days, it can only do so if you agree.

The social work department should be able to provide help to people making a complaint. It is therefore worth asking what help is available, in particular whether there are any advocacy services which can assist you.

The local authority has to tell you, in writing, the outcome of the “formal stage”. If you are making a complaint on behalf of the person you care for, he or she should be informed of the outcome of the investigation, unless the social work department consider that he or she is not able to understand the complaint or it would cause him or her distress.

The local authority’s reply should advise you of your right to ask for the complaint to be referred to for review if you feel that the problem is not resolved.

Stage 3 – the review stage

If you are not satisfied with the response to your complaint, you can request to have your complaint referred for review. You must put your request in writing, within 28 days of receiving the Stage 2 decision.

The panel will consist of three people, at least one of whom must be independent and who should chair it. It is the panel’s job to re-examine the previous decision. It is in your interest to attend if you can. The panel will find it easier to understand your situation if they can ask you questions. You are entitled to be accompanied by another person, for instance an advice worker, who could speak on your behalf if you wish.

The panel must make recommendations in writing to the local authority within 56 days of receiving notice of the complaint. The social work department then has 28 days to respond to the recommendations. Their response should be sent in writing to you. The letter should explain the social work department’s decision and the reason for it.

Complaint to the Scottish public service ombudsman

If you are unhappy with the outcome of your complaint to your local authority or it has not been resolved to your satisfaction, you can ask the Scottish Public Services Ombudsman to investigate further.

The Scottish Public Service Ombudsman can investigate complaints against local authorities, the NHS or any private or voluntary sector services paid for by the local authority or the NHS. You will need to go through their complaints procedures before you can make a complaint to the Scottish Public Service Ombudsman. You should put your complaint in writing and provide proof that you have already used the appropriate local complaints procedure, for example, letters to and from the authority involved. The Ombudsman does not have to investigate your complaint if they do not

think it is justified. You can contact the Ombudsman at: **The Scottish Public Service Ombudsman**, Freepost EH641, Edinburgh EH3 0BR Tel: 0800 377 7330, email: ask@spsso.org.uk or complain online at www.spsso.org.uk.

Judicial review

Where social work departments appear to have acted unlawfully in reaching a decision, an application can be made to the Court of Session in Edinburgh asking the judge to review the decision. You must get expert legal advice before taking this course of action. People on low incomes can get legal aid but otherwise this is a very costly process. Judicial review might be appropriate in cases where the social work department has refused to carry out an assessment or reach a decision, particularly if services are required urgently.

SECTION 2

Care homes and care services

Care services provided by local authorities, private companies and voluntary organisations are now regulated by the Care Commission. The Commission is responsible for inspecting care services and creating and enforcing standards for care services. They publish care standards covering nineteen areas of care including care homes, care and home and short breaks. When making a complaint, these standards can provide a useful source of reference and can be viewed online at www.scotland.gov.uk/Topics/Health/care/17652/9328 or obtained free for service users from **Care Commission Sponsorship Branch, Scottish Executive Health Department, 1-R St Andrews House, Regent Road, Edinburgh, EH1 3DG Tel: 0131 244 3540/3699.**

Using the Care Commission complaint procedure

You can make a complaint about any care services, including those provided by local authorities, in writing, email or fax or can telephone or visit with your complaint. The Commission can be contacted at **The Care**

Commission Headquarters, Compass House, 11 Riverside Drive, Dundee DD1 4NY Tel: 01382 207100, Complaints Tel: 0845 6030890, Fax: 01382 207236 or by emailing from their website at www.carecommission.com. You can also visit the headquarters in Dundee or one of the Commission's regional offices in Aberdeen, Hamilton, Musselburgh or Paisley (for contact details telephone the Commission on 01382 207100).

The Commission will acknowledge your complaint in writing – no matter in what way it is made – within 3 working days of receiving it and will tell you who the Complaints Resolution Officer dealing with your complaint is. If the Commission think it is appropriate, they will then attempt to resolve your complaint informally. This will take no more than 14 working days. If the Commission fails to resolve the complaint informally, or they feel that it is not appropriate to try informal resolution, they will undertake a fuller investigation. This should take no more than 28 working days from when you first made the complaint, and you should be sent a letter telling you what the outcome of the investigation was, and what action will be taken.

Review

If you are still dissatisfied and feel that your complaint was not investigated thoroughly, you can ask for a review of the investigation. To request a review you need to write to the Complaints Officer at the Care Commission's headquarters in Dundee. The Director of Operations and the Head of Policy and Development can either review the complaint themselves or ask the Review Committee to do this. The Review Committee is made up of Care Commission Board Members. In both cases, after examining the evidence from the investigation a decision will be taken about the complaint.

Copies of the Care Commission's Complaints Procedure can be obtained by contacting the Care Commission at The Care Commission, Headquarters - Compass House, 11 Riverside Drive, Dundee DD1 4NY, Tel: 01382 207100 or can be downloaded at www.carecommission.com

Complaint to the public service ombudsman

Again, if you are dissatisfied with the outcome of your complaint, you can make a complaint to the Scottish Public Service Ombudsman (see page 2 for details).

SECTION 3

National health services

The NHS complaints procedure responds to complaints about services, for example, hospital treatment, GPs, community psychiatric nurses, dentists, opticians and pharmacists.

Local resolution

The NHS complaint system is based on “local resolution” which means that you must first complain to the organisation (e.g. GP’s surgery or hospital) that you are complaining about.

Normally you are encouraged to make this initial complaint informally; however, if you do not wish to or if you are still dissatisfied, every NHS body (hospital or group of hospitals) and Primary Care Service (GP surgery, dental practice, etc.) should have a complaints officer. Any member of staff should be able to tell you who that is. If the complaints officer is someone involved in your care, contact the complaints officer at your local Health Board (contact details will be in the telephone book under health services).

If you have complained to a NHS body, service or Health Board, you should receive a letter explaining how they will investigate your complaint and will also give information on how to get independent advice and advocacy to help with your complaint.

This will normally be done within 3 days of receiving your written complaint.

This letter may also outline opportunities for independent conciliation. An independent conciliation service can help you and the person you have complained about reach an agreement about what can be done to

resolve your complaint. *Conciliation can only be used if you and the person you complained about are willing to take part.*

You should receive a full response to your complaint within 20 days. If this is not possible, they should inform you of what progress has been made and when they expect to resolve your complaint.

If you have complained to GP practice, NHS optician or NHS dental practice, they should contact you within 10 days to tell you their resolution of your complaint.

Complaint to the public service ombudsman

Again, if you are dissatisfied with the outcome of your complaint, you can make a complaint to the Scottish Public Service Ombudsman (see page 1 for details).

Complaints about hospital discharge

There is a particular complaint procedure you can follow if you are unhappy with the hospital’s discharge planning for the person you are caring for. For details of this, see our booklet “Coming out of hospital” or contact Carersline on 0808 808 7777.

SECTION 4

Preparing for the complaint

Write down all the things that you wish to complain about and, if possible, discuss them with the person for whom you care. You should also consider what outcome you want. If your complaint is toward the local authority, consider asking the social work department for a copy of your file and, if the person you care for gives permission, for a copy of his or her file. Ask in advance if there will be a fee. When writing to the social work department, you should state that you are asking for copies of these documents under the Access to Personal Files (Social Work) (Scotland) Regulations 1989, and that under these regulations you should receive this information within 40 days.

You can also get more information about complaining about public services on the Scottish Public Services Ombudsman's website at www.spsso.org.uk.

Where to get help in making a complaint

You can get help with your complaint from an advice centre like the Citizens Advice Bureau, local law centre or from a disability organisation. These organisations may be able to give you details of lawyers who are able to advise on community care law and the law related to health services.

Useful Contacts

Carers Scotland

91 Mitchell Street
Glasgow, G1 2LN.
Tel: 0141 221 9141
Email: information@carerscotland.org

CarersLine

Freephone: 0808 808 7777
(Wed & Thurs, 10am – 12 noon & 2pm – 4pm) Minicom No. 020 7521 8969

About Carers Scotland

Carers Scotland is the voice of carers.

Carers provide unpaid care by looking after an ill, frail or disabled family member, friend or partner.

Carers give so much to society yet as a consequence of caring; they experience ill health, poverty and discrimination.

Carers Scotland is an organisation of carers fighting to end this injustice.

Carers Scotland is here to improve carer's lives

- We fight for equality for carers. We want carers to have the same rights as everyone else to an ordinary life – a fair

level of income, access to support to protect their health and wellbeing and access to the world of work, leisure and education.

- We seek to empower carers. We want carers to be actively involved in the design, development and delivery of services. We want carers to be recognised and involved as key partners in the provision of care.

Carers Scotland achieves this by

- campaigning for the changes that make a real difference for carers
- providing information and advice to carers about their rights and how to get support
- mobilising carers and supporters to influence decision makers
- gathering hard evidence about what needs to change
- transforming the understanding of caring so that carers are valued and not discriminated against.
- providing carer awareness training for staff in health, social care and the voluntary sector.
- promoting training for carers to maximise their skills and experience.

Join Us, Make Your Voice Heard!

Carers Scotland is part of Carers UK. Carers Scotland and Carers UK want carers to be recognised for the contribution they make to society. We need you to add your voice by joining Carers UK to help us win better support for carers.

We welcome any individual who supports our aims. You will benefit by receiving the latest information written by our team of experts.

We're offering **free** membership to carers and former carers because we know that carers have many calls on their finances.

Join today and you'll receive:

- Our quarterly members' magazine, Caring, with the latest information on caring, carers' stories and how Carers UK is making a difference.
- CARERS, our magazine for Scottish members.
- Helpful free telephone advice on all aspects of caring from our CarersLine experts.
- Free information booklets written by experts covering a wide range of topics from carer benefits to practical help.
- Invitations to our Members' Conference and Annual General Meeting
- You'll also have a say in how Carers UK is run with a vote on electing our Trustees, the majority of whom are carers themselves and who ensure Carers UK is carer- led.

How to Join

Telephone our membership hotline on 020 7566 7602, email: membership@carersuk.org or join online at www.carerscotland.org/Aboutus/Joinus

Associate Membership

We also offer membership for professionals groups and organisations. For further information visit www.carerscotland.org/Aboutus/Joinus or telephone 020 7566 7602 email: membership@carersuk.org

Other Publications

Carers Scotland produces a range of publications for carers including factsheets and leaflets on topics including: Disability Living Allowance, Assessments, hospital discharge, flexible working, the law, health and wellbeing, new to caring, when caring ends and, taking a break from caring.

We also publish research and good practice on, for example, carers and employment, carers and health and carers and poverty.

For a copy of our "publications for carers" or "research and resources" list, please email: info@carerscotland.org or call Carers Scotland on 0141 221 9141. Many of our

leaflets, reports and factsheets are also available online at www.carerscotland.org

Information is also available on our website www.carerscotland.org

Factsheet produced by:

Carers Scotland
91 Mitchell Street
Glasgow G1 3LN
Tel: 0141 221 9141

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This factsheet is also available in large print - call 0141 221 9141

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