

birthrights

Making a complaint

Your right to make a complaint

The [NHS Constitution](#) guarantees every patient in England the right to make a complaint about NHS services and the NHS is bound by a [statutory complaints procedure](#).

All complaints must be dealt with efficiently and must be properly investigated. You have a right to know the outcome of any investigation and to take your complaint to the independent [Health Service Ombudsman](#) if you are not satisfied with the way your complaint has been dealt with by the NHS.

The complaints process in Scotland, Wales and Northern Ireland differs from that in England. These regions have their own procedures and complaints bodies. If you live in these regions, we recommend that you seek assistance from local patient advice services.

Raising concerns before you give birth

If you have concerns about your maternity care before you give birth, you should raise these as soon as you can with your midwife or doctor and their manager. If you need further assistance, you can contact a [Professional Midwifery Advocate](#) or the Head of Midwifery at your local NHS Trust.

Birthrights offers a free and confidential legal advice service for women and healthcare professionals seeking advice about provision of maternity care. You can contact us by email: info@birthrights.org.uk.

Birth afterthoughts



In some areas, NHS midwives run a 'birth afterthoughts' service which offers an opportunity to go through your notes and experience and to try to resolve any unanswered questions you may have about them. These services also give NHS Trusts a chance to resolve queries, which may otherwise escalate into complaints.

Your local [Patient Advice and Liaison Service \(PALS\)](#) should be able to tell you whether a birth afterthoughts scheme operates in your area.

Before you make a complaint

If you are considering making a complaint, you may want to make a note of your experience as soon as you can. You could also ask anyone who was present with you to write down what they witnessed and give you a copy.

Before you make a complaint, it is always a good idea to request a copy of your and/or your baby's healthcare records. You should generally wait to receive the records before you make a complaint, as you may have a better understanding of what happened and who was involved in your care once you have seen your notes. See [Accessing Your Records](#).

Who do I complain to?

If you have a complaint about maternity care you received from the NHS, you can complain to the NHS body responsible for your care. This will generally be a [hospital trust](#) or [Local Health Board](#), your GP, or an [ambulance trust](#). NHS Trusts provide details of who to contact locally on their websites.

You may also wish to complain to a professional body such as the [General Medical Council](#) if the complaint relates to a doctor or the [Nursing and Midwifery Council](#) if it relates to a midwife or nurse.

You could consider complaining to the [Clinical Commissioning Groups](#) that commissioned the maternity care you received, particularly if your

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complaint relates to policies or provision of a service or treatment, rather than the conduct of an individual health professional.

Writing your complaint

You should address your complaint to the Chief Executive of the NHS Trust or Health Board, or the GP Practice Manager. You may also want to copy your complaint to the head of midwifery, director of women's services, director of nursing, chief executive and/or the consultant responsible for your care.

Your complaint should be as detailed as possible and provide the names of the people involved in your care, if you know them.

It is useful to use numbered points in your complaint so that you can make sure that the care provider has addressed all the issues you have raised.

The complaints process

The NHS [statutory complaints procedure](#) sets out the process that must be followed when dealing with a complaint.

NHS Trusts also produce their own local procedures, which are based on the statutory procedure. Your local [Patient Advice and Liaison Service \(PALS\)](#) should be able to provide a copy of the NHS Trust's complaints procedure and contact details.

Once you have made a complaint, you should receive an acknowledgement from the care provider within 2-3 working days confirming that your complaint has been received and indicating what will happen next.

NHS bodies are obliged to investigate your complaint speedily and efficiently and keep you informed as to the progress of the investigation.

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 own home or a neutral venue, if that would make you more comfortable. It is a good idea to take someone who was not involved in your birth with you to the meeting.

The response to your complaint must usually be sent within 6 months of the complaint being made. You should receive an explanation of how the complaint has been considered and the conclusions reached, including whether the care provider intends to take any remedial action, such as disciplinary action against staff or changes to its policies or practice.

If the care provider accepts that mistakes were made in your care, they should apologise. You cannot be offered compensation through the complaints process.

Is there a time limit?

A formal complaint under the NHS complaints procedure must be made within 12 months of the date of treatment. If you discover a reason for making a complaint after the 12 months have elapsed, you can make a complaint within 12 months of that date.

The deadline may be extended where the person making the complaint had good reasons for not doing so within the time limit and it is still possible to investigate the complaint fairly and effectively.

In the context of maternity services, it may well be the case that trauma about your experience prevents you from making your complaint within a year, and you should not be put off from making a complaint outside the time limit.

You could consider writing to the care provider before 12 months elapses to inform them that you intend to make a complaint when you are well enough to do so.



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The Health Service Ombudsman

If the relevant NHS body has not satisfactorily resolved your complaint, you can refer it to the [Parliamentary and Health Service Ombudsman](#).

The Ombudsman will usually only accept a complaint if attempts to resolve it within the relevant NHS body have been unsuccessful.

Complaints should be referred to the Ombudsman as soon as possible and within a year of the incident. The Ombudsman can extend this deadline if the local complaints process has caused a delay.

If you are unhappy with the way that the NHS body handled your complaint, you can include this in your complaint to the Ombudsman.

Complaints to professional bodies

You can also complain about an individual member of staff to their professional body on the grounds that their conduct means that they are not fit to practise.

Complaints about midwives and/or nurses can be made to the [Nursing and Midwifery Council](#), and complaints about doctors to the [General Medical Council](#).

Professional bodies usually expect the employer (i.e. the NHS body) to try to resolve the issue first before they get involved in any complaint.

Taking legal action

You may be able to take legal action in relation to negligent treatment or any breach of your rights, subject to the limitation periods set out below. The court will expect you to have exhausted other avenues to resolve your complaint (such as the NHS complaint process and referral to the Ombudsman) before starting legal action.

Any claim by or on behalf of the mother must be issued within 3 years of the birth. The child will usually be able to make a legal claim until their

21st birthday, or indefinitely if they do not have mental capacity to make a claim.

Legal action is often expensive and you may not recover all of your costs. You should seek independent legal advice before launching a claim. Many solicitors' firms offer a free initial assessment of personal injury claims.

[Action against Medical Accidents](#) is a charity which promotes better patient safety and justice for people who have suffered avoidable harm. It offers free and confidential advice and support, including a helpline. The [Citizens Advice Bureau](#) also offers guidance on taking legal action as well as making a complaint about care. The [NHS Litigation Authority](#) also provides some information on how negligence claims are handled.

Resources

Independent advocacy organisations can help you make a complaint. You can find details of the service in your area via [PALS](#).

The [Association for Improvements in the Maternity Services \(AIMS\)](#) also produces a comprehensive complaints publication.

Disclaimer: This factsheet provides information about the law in England. The information is correct at the time of writing (April 2017). The law in this area may be subject to change. Birthrights cannot be held responsible if changes to the law outdate this publication. Birthrights accepts no responsibility for loss which may arise from reliance on information contained in this factsheet.