

Prisoners Advice Service – Information Sheet

HEALTHCARE COMPLAINTS

All prisoners are entitled to the same range and quality of health services as the general public receive under the National Health Service (Performance Standard 22). This includes access to dental services.

Public Prisons

In April 2006, responsibility for the provision of healthcare within prisons transferred from the Prison Service to the NHS. The healthcare services in public prisons are now provided by local NHS Primary Care Trusts (PCTs). NHS PCTs are responsible for the service they provide within a prison, even if they sub-contract the service to a private provider. Therefore, all healthcare complaints in public prisons should be made using the NHS complaints procedure.

Private Prisons

Private prisons can make arrangements for the local NHS PCT to retain responsibility for healthcare provision in which case the NHS complaints procedure applies, although currently only HMP Peterborough has this arrangement. More commonly, the general prison healthcare service will be provided under a private contract. However, specialist support services, such as mental health in-reach teams, or appointments with hospital consultants, remain the responsibility of the local NHS PCT.

How do I complain?

The complaints process you need to use will depend on whether the healthcare is provided by an NHS PCT, or by a private healthcare contractor in a private prison.

NHS Complaints

You can either complain to the prison healthcare service that you're unhappy with, or to the local NHS PCT, which commissioned the service. PALS and ICAS are two organisations that may be able to help you with your complaint.

PALS: All NHS Trusts have a Patient Advice and Liaison Service (PALS). They offer confidential advice, support and information on health-related matters to patients and their families. Whilst PALS are part of the NHS, they can advocate on your behalf for the service that you need. PALS might be able to assist, for example, if you need an urgent healthcare appointment.

Your prison healthcare department should provide you with contact details for PALS on request. Alternatively, you can obtain details of your local PALS office through NHS direct or via your local ICAS provider (see below).

ICAS: The Independent Complaints Advocacy Service (ICAS) provides a free advice and advocacy service for people who wish to complain about the NHS. ICAS is not part of the NHS, and its services are provided by three separate contractors covering different regions.

The contractor, POhWER, which provides ICAS for the London, Bedfordshire, Hertfordshire, Cambridge, Norfolk, Suffolk, Essex, and West Midlands regions, has a dedicated prison team. POhWER's ICAS caseworkers can visit you in prison, if this is necessary to assist with a complaint.

POhWER Prison ICAS
Freepost RRLS-SYXJ-ZZZZ
ICAS
PO Box 14043
Birmingham
B6 9BL
Tel: 0845 456 4214

Contact details for the other regional ICAS services are as follows:

- South East: 0845 600 8616
- South West: 0845 120 3782
- East Midlands: 0300 456 8347

- North East: 0300 456 8348
- North West: 0300 456 8350
- Yorkshire and Humberside: 0300 456 8349

You can also contact the NHS Direct helpline for advice on NHS complaints. Call 0845 4647.

Private healthcare complaints

Private healthcare providers are usually required to operate their own complaints procedures. In private prisons you should ask an officer or member of the healthcare staff for information on how to submit a healthcare complaint.

What can I do if I am unhappy with the response to my complaint?

The Parliamentary and Health Service Ombudsman (PHSO) may investigate on your behalf if you fail to resolve a complaint through the local complaints procedure. You must normally exhaust the NHS or private provider’s internal complaints process before you can ask the PHSO to investigate.

If you are complaining about the NHS, you can write directly to the PHSO, in its capacity as the Health Service Ombudsman.

The Parliamentary & Health Service Ombudsman
 Millbank Tower
 Millbank
 London
 SW1P 4QP
 Tel: 0345 015 4033

If you are complaining about healthcare in a private prison, you cannot send a complaint directly to the PHSO. You need to contact an MP (any will do) and ask them to refer your complaint to the PHSO for investigation. This is because the PHSO has oversight of healthcare in private prisons in its capacity as the Parliamentary Ombudsman. The Parliamentary Ombudsman only accepts complaints that are referred by an MP.

Legal Action

If you have suffered personal injury as a result of failures to provide treatment, you may be able to make a claim for compensation. If you think you have a claim you should get advice as soon as possible from a specialist clinical negligence lawyer. Do not use the NHS complaints procedure if you are taking legal action to get financial compensation. This is not available under the NHS system and your NHS complaint will not proceed if legal action is underway.

Handcuffing during hospital treatment

Prisoners may be handcuffed in public areas when on escorted visits to hospital if the prison considers they pose a risk to the public or there is a risk of absconding. The National Security Framework starts from the premise that handcuffs should be removed during treatment unless the risk of escape is too high. Handcuffs may be used even where the risk to the public and escape potential is categorised as ‘low’ (*R. (on the application of Faizovas) v Secretary of State for Justice [2009] EWCA Civ 373*). However, a disproportionate use of handcuffs during escorts or treatment when there is no risk to the public or of escape is likely to constitute a breach of Article 3 of the European Convention of Human Rights and be unlawful. Similarly, the routine handcuffing of a prisoner whilst at a hospital, without an assessment of the risk in his individual case, is likely to be unlawful (*Mouisel v France [2004] 38 EHRR 34*). Moreover, the particular nature of treatment may require handcuffs to be removed during treatment if alternative security arrangements are available (*Faizovas*).

Challenging healthcare decisions

You may be able to challenge a decision concerning your medical treatment, for example to refuse you treatment, by judicial review proceedings. This is a complex area of law and you will need to seek legal advice prior to taking such action.

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