

HEALTHCARE COMPLAINTS

Prisoners are legally entitled to the same range and quality of health services as the general public. This includes access to dental services.

Prison healthcare is overseen by NHS England. Even if prison Healthcare in your prison is run by a private company like Care UK, it, will be overseen by NHS England.

NHS complaints and the law

All prisoners have access to the NHS complaint system. The NHS can investigate any prison healthcare service, whoever the provider is. NHS England also provides advice on complaints.

The core requirements for NHS complaints handling are laid out in:

- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009; and
- The Health and Social Care (Community Standards) Act 2003.

These pieces of legislation govern when, how, by whom and to whom complaints can be made, as well as setting out requirements for the complaints procedure itself.

Informal complaints

There is the option for patients and NHS bodies to attempt to resolve any issues informally prior to making a formal complaint. If you make a complaint orally, and this is resolved to your satisfaction 'not later than the next working day after the complaint was made' then by virtue of the Reg (1)(C) of the Complaints Regs 2009, the body complained about is not required to handle the complaint in accordance with the process.

Formal Complaints

Under Reg 13(1), a patient who wishes to make a formal complaint can do so orally, in writing or electronically. Reg 13(2) states that where a complaint is made orally, the responsible body to which the complaint is made must:

- a) make a written record of the complaint; and
- b) provide a copy of the written record to the complainant.
- c)

The Regulations state that formal complaints must be acknowledged within 3 working days (orally or in writing), be dealt with efficiently, be properly investigated and responded to in a timely and appropriate response.

Reg 14(1) states that the complaint must be investigated in a manner appropriate to resolve it speedily and efficiently, and that during the investigation, the complainant must be kept informed as to the progress of the investigation, as far as reasonably practicable. Reg (2) states that as soon as reasonably practicable after completing the investigation, the responsible body must send the complainant in writing a response, signed by the responsible person. This response should include a report containing an explanation of how the complaint has been considered and the conclusions reached..

How do I complain?

You have two options:

- 1) Complain directly to the health service provider in the prison. They will have their own two stage complaints process and information about it should be made available to you. ***This is different from making a prison complaint on a COMPL.***

Or, 2) Complain directly to:

*NHS England
PO Box 16738
Redditch, B97 9PT
Tel 0300 3112 233*

You need to provide your name and address, details of your complaint and any letters or relevant documents. NHS England aims to respond within 20 working days. The process is different if you are complaining about a hospital or GP in the community. It is also different if you are in a prison in Wales. Please note that NHS England will not investigate a complaint already considered by the healthcare provider.

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

If you are not happy with the responses from the healthcare provider or from NHS England, the final stage of the complaints system is to go to the Parliamentary and Health Service Ombudsman (PHSO). They have the same powers as a court. NHS England has to give the PHSO any information they require to help them investigate your complaint. You must normally exhaust the internal complaints process before you ask the PHSO to investigate.

You can write to the PHSO at:

*PHSO
Millbank Tower
Millbank,
London SW1P 4QP
Tel: 0345 015 4033*

Help with healthcare complaints

Every area of England and Wales has an independent NHS complaints advocacy service funded by the local authority. They can help you make a complaint about the NHS. This service is open to everybody and is free of charge. Please contact us if you would like details of your local healthcare advocacy service.

Legal action

If you have suffered personal injury as a result of failure 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. The NHS complaints procedure cannot be used if you are taking legal action to get financial compensation. Your NHS complaint will not proceed if legal action is underway.

You can potentially bring judicial review proceedings against the NHS if you are seriously affected by an ongoing unlawful act or decision by an NHS body. We recommend seeking legal advice before doing this.

Handcuffing during hospital treatment

The National Security Framework PSI 33/2015 External Escorts Prisoners sets out the policy and risk assessment process for use of restraints on prisoners during travel to the hospital and while at hospital.

Restraints may be used even where the risk to the public and escape potential is categorised as 'low' (R. (on the application of *Faizovas*) v SSJ [2009] EWCA Civ 373). However, disproportionate use of restraints during escorts or treatment when there is no risk to the public or of escape may constitute an unlawful breach of Article 3 or Article 8 of the European Convention of Human Rights. Similarly, routine handcuffing of a prisoner at a hospital, without an assessment of individual risk, is likely to be unlawful (*Mouiel 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*).

Raising concerns about fitness to practice for healthcare workers

1. Nurses-Nursing and Midwifery Council (NMC) - You are entitled to report concerns or complaints about the conduct of nursing staff to the NMC. Their address is:

*NMC, 23 Portland Place
London, W1B 1PZ*

Tel: 020 7637 7181

2. Doctors- General Medical Council (GMC)

- The GMC will investigate concerns or complaints about a doctor's practice. Their address is:

*General Medical Council
Regent's Place, 350 Euston Road
London, NW1 3JN
Tel: 0161 923 6602*

3. Paramedics and other health professional- Health & Care professions Council (HCPC)

The HCPC regulate many professionals who have designated titles that are protected by law and who must be registered to use them. The most relevant to prisoners will be Paramedics and Psychologists.

The HCPC considers every concern raised individually. If you have concerns about a HCPC regulated professional, you can write and raise a concern or submit a complaint. Their address is:

*HCPC
Park House,
184-186 Kennington Park Road,
London, SE11 4BU
Tel: 020 7840 9814*

You can also raise concerns with:

Care Quality Commission (CQC) - The CQC is an independent regulator of health and social care in England. You can write to the CQC and ask for a copy of the healthcare inspection report for your prison. You can also obtain a full list of their fundamental standards if you write to them. For monitoring purposes, if you have experienced poor healthcare in prison, you can make CQC aware of your experience. Please be aware however, that the CQC does not settle individual complaints. You can write to the CQC at:

Care Quality Commission
Citygate, Gallowgate
Newcastle upon Tyne
NE1 4PA
Tel: 03000 616161

PRISONERS' ADVICE SERVICE
PO BOX 46199
LONDON EC1M 4XA

Advice Line: TEL: 020 7253 3323
Mon, Wed, Fri 10am-12.30pm & 2-4.30pm