



Somerset Health Complaints



**A step-by-step guide
to making a complaint
about the NHS**

Tel: 03333 44 7928

Email: somerset@swanadvocacy.org.uk

This booklet is written for people who may feel they are able to submit their own NHS formal complaint. However, if having looked at this information, you decide you do need advocacy support, please contact us and one of our advocates will be happy to help. The booklet is also relevant for people who just want to understand the process better, even if SWAN is working with them on their complaint.

Please read this first

Are you worried or unhappy about your current healthcare or treatment of that of a friend, relative or loved one?

If you are then it may be more appropriate for you to do one of the following:

- Speak to a member of staff directly involved with your treatment, or their manager; this is often the quickest way to put things right and stop them getting worse. Remember to take a name, date and to write down a summary of your conversation.
- Speak to the Patient Advice and Liaison Service (PALS). In some NHS Trusts it may have a different name (e.g. Customer Support, Patient Experience or Advice and Complaints Team) but all Trusts will have a service of this kind. PALS provides information, advice and support to patients, families and carers and can help you get answers to your questions quickly. PALS is run by NHS staff. For more information visit the NHS Choices website www.nhs.uk (enter PALS into the search box) or ask the person who is treating you. If it is difficult for you to contact PALS yourself and you need advocacy support with this, SWAN may be able to help. Please contact us to discuss.

Do you need to make a formal complaint?

The formal NHS complaints procedure may be the best route to follow if:

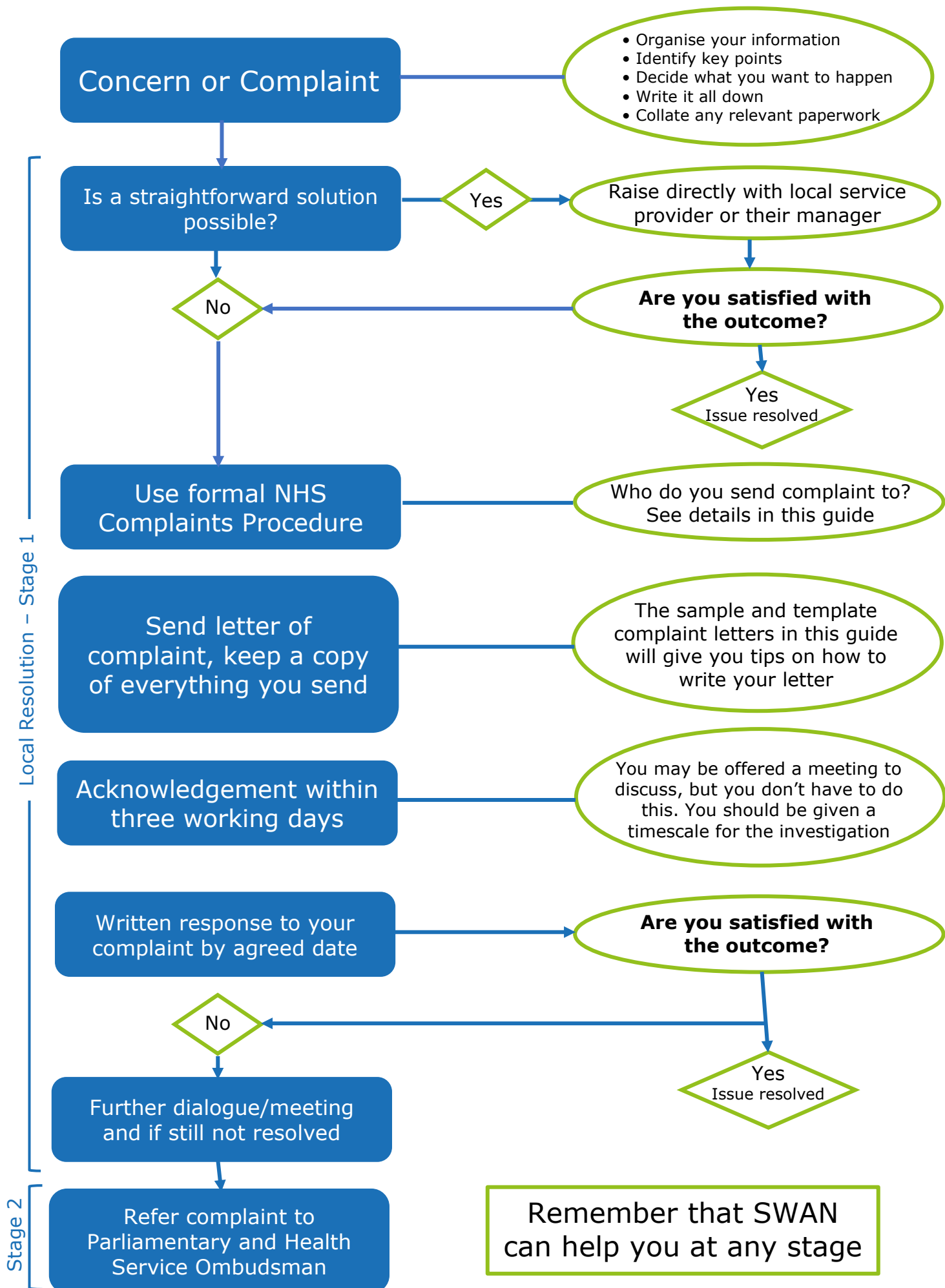
- you have raised your concerns but they have not been resolved fully;
- what happened raises serious questions about standards of care;
- you wish to raise complex issues;
- the issues involved concern more than one organisation.

This toolkit will tell you what the NHS complaints procedure does and doesn't cover and will help you to understand how it works. You can also find information online at <https://www.nhs.uk/using-the-nhs/about-the-nhs/how-to-complain-to-the-nhs/>

If you are unsure whether you need to raise your complaint formally or informally, please contact us and we will discuss your options so that you can make an informed decision. SWAN can support you at any stage of the NHS complaints process. Our contact details are in section 2 of this booklet.

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2. SWAN – South West Advocacy Network

Advocacy is a way of helping people to express their views and concerns on important issues when they are dealing with different organisations. Often if people have had a distressing or traumatic experience with healthcare, it is difficult for them to communicate those concerns for themselves. Not knowing exactly how to put in a formal NHS complaint can be a barrier to making those issues known. This is where the Independent Health Complaints Advocacy Service can help. SWAN provides the independent NHS complaints advocacy service in Somerset; it is a free and confidential service.

An advocate can support you with a complaint about an NHS service by:

- explaining how the NHS complaints process works;
- listening to your concerns about what has happened to you;
- using that information to write letters on your behalf to the hospital or healthcare provider through the formal complaints procedure;
- attending meetings with you;
- making sure that the service responds to the complaint appropriately;
- continuing to support you if it is necessary to take the complaint a step further to the Parliamentary and Health Service Ombudsman. This may be possible when all attempts to resolve the complaint with the organisation have failed.

If you decide to ask us to act on your behalf, you can still use the information in this booklet to guide you through the process, even when we are supporting you. Or if you want to use this self-help guide to make your own NHS complaint, you can still check with SWAN's Independent Health Complaints advocates about issues to do with the formal process or other questions you may have. Our service is here to support you in the way that is best for you.

If you want to complain about an NHS service outside of Somerset, we may be able to assist you, depending on the location and circumstances, or we will help you to contact the local Independent Health Complaints Advocacy Service.

Call us on **03333 44 7928**, email us at **somerset@swanadvocacy.org.uk** or you can write to us at:

SWAN (IHCA)
Hi Point,
Thomas Street,
Taunton,
Somerset
TA2 6HB

3. Expressing your concerns

If you're not happy with the care or treatment you've received or you've been refused treatment for a condition, you have the right to complain, have your complaint investigated, and be given a full and prompt reply.

The NHS Constitution explains your rights when it comes to making a complaint. You have the right to:

- have your complaint dealt with efficiently, and be properly investigated;
- know the outcome of any investigation into your complaint;
- take your complaint to the independent Parliamentary and Health Service Ombudsman if you're not satisfied with the way the NHS has dealt with your complaint;
- make a claim for judicial review if you think you've been directly affected by an unlawful act or decision of an NHS body;
- have the right to compensation where you have been harmed by negligent treatment. If you have been harmed through negligent treatment, you have a right to claim for damages, however this is a separate process from the NHS formal complaints system. If this is something you want to do, you should seek legal advice. In the first instance you can contact AvMA (Action Against Medical Accidents) who can give you free, independent advice and guidance about this process (www.avma.org.uk or their telephone helpline on 0845 123 23 52).

Most issues can be resolved without you having to make a formal complaint. Try having an informal chat with your doctor or a member of staff first. A formal complaint takes time and minor issues are resolved quicker if you just speak to a person on site. For example, if you have problems booking a GP appointment speak to the practice manager about it. If you are worried about something during your hospital outpatient appointment, talk to one of the nurses or the clinic manager.

NHS England encourages everyone to see if things can be resolved informally there and then before they escalate to become a real problem.

However, if trying to resolve the matter informally doesn't solve the problem, or even if it does but you would still like to make a formal complaint, you should follow the NHS complaints procedure as described below. This is the first stage of the formal complaints process and is called "local resolution".

If you want to find out more about the NHS complaints procedure you can refer to The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009. This document can be found on the Department of Health website www.dh.gov.uk

4. What can you complain about?

The NHS complaints procedure applies to all services provided or funded by the NHS including GPs, hospitals, pharmacies, opticians, dentists and the ambulance/patient transport service.

You **cannot** use the NHS complaints system for complaints that are about:

- social care – unless it is part of an integrated health and social care package;
- privately funded health care;
- clinical negligence claims or other legal matters;
- matters that are not directly related to your treatment or care. If you are unsure whether a complaint is in scope, the organisation about which you wish to complain should be able to inform you whether they will handle it, and signpost you to the appropriate place if they will not.

5. Making a complaint

If you don't feel like you can resolve issues informally then you should make a formal complaint to your healthcare provider such as your GP, dentist, hospital or pharmacist. If you cannot make a complaint yourself, then you can ask someone else to do it for you.

If you have no-one to help you then you can contact SWAN on **03333 44 7928** or by email somerset@swanadvocacy.org.uk

The complaints manager for the service you want to complain about should be able to explain exactly how the system works locally, but generally you should expect the following:

- You should receive acknowledgement of your complaint within a reasonable time.
- They should agree with you a timescale for resolving your issues and how they will keep you informed of progress.
- You should be offered an opportunity to discuss your complaint and arrange a meeting to resolve your concerns with you (a 'Local Resolution Meeting'). If you would like more information about this type of meeting or would like an advocate to go with you to a meeting please contact us at SWAN.
- They will contact you for your consent if they need to speak to any other NHS departments or contractors in order to investigate your complaint.
- They should contact you if they need to change the timescale and agree an amended timescale. The timescales can be influenced by things like how many staff they need to speak to, how easy it is for them to access

your medical records and if other organisations are involved in your complaint.

- There should be an investigation into the issues you have raised. They should help you to understand the complaints procedure or offer information on where to obtain such assistance, for example the Independent Health Complaints Advocacy service at SWAN.
- Once the investigation is complete, the organisation should either write to you to inform you of their findings or offer you a meeting to discuss them. When the meeting is over, they should write to you with their findings and any agreements you have reached.

Section 8 explains in more detail what you can expect from your complaint.

If you feel too uncomfortable to complain to the organisation directly, you can make a complaint to the commissioner of the services instead. NHS services are normally commissioned, planned and paid for by Integrated Care Boards (ICBs), although some specialist services are commissioned directly by NHS England. Details of who are responsible for different services in Somerset are given in sections 11 of this booklet.

Note: if you have already complained to the organisation or healthcare provider then the commissioner will not be able to reinvestigate the same concerns. In this case you should proceed to stage two of the complaints process (the Parliamentary and Health Service Ombudsman).

6. When should you complain?

As soon as possible. Complaints should normally be made within 12 months of the date of the event that you're complaining about, or as soon as the matter first came to your attention. The time limit can sometimes be extended (as long as it is still possible to investigate the complaint). An extension might be possible, such as in situations where it would have been difficult for you to complain earlier, for example, when you were grieving, were suffering from ill health or trauma. The organisation can use its discretion to deal with the complaint outside the usual time limits but it doesn't have to, so it is always best – as far as possible – to act as quickly as possible.

7. Who can complain?

You may complain about your own care and treatment or a service failure that has affected you. You can also complain on behalf of:

- someone who has died;
- a child;
- someone who cannot complain for themselves because of a physical incapacity;
- someone who lacks capacity within the meaning of the Mental Capacity Act 2005;

- someone who has asked you to do so, provided they give their written consent.

If you wish to make a complaint on behalf of a child, the organisation can only consider the complaint if they are satisfied that there are reasonable grounds for you to make the complaint instead of the child. If they are not satisfied, the organisation must notify you in writing and state the reason for their decision. In addition, the organisation has to be satisfied that the complaint is in the best interests of the child. Similarly, the organisation has to be sure that complaints made on behalf of people who lack mental capacity are in their best interests. If they decide not to investigate the complaint, they must let you know this in writing, and the reasons why.

If you are making a complaint about the care or treatment of someone who has died, the health service provider may want additional proof that you have a right to make the complaint (e.g. they may want to see documents to prove that you are next of kin, an executor of that person's estate etc.).

8. What to expect of the complaints procedure

The organisation will carry out a full investigation into your complaint and then respond.

The organisation should provide a complaint response letter that includes:

- a summary of your complaint;
- what the investigation found;
- what to do if you are still unhappy with the answers given.

Depending on what the investigation found, the letter may also contain:

- an apology, if appropriate;
- an explanation of what action will be taken as a result of your complaint, who is responsible for this action and when it will be completed (if you have asked for this in your complaint letter);
- what steps have been taken to prevent the same thing happening again to other people (again, if you have asked for this in your complaint letter).

The response letter should be:

- balanced, factual and impartial;
- clear and easy to understand.

If a member of staff is disciplined or sacked as a result of the investigation into your complaint, you will not be told about this in the response because of the organisation's duty of confidentiality to its staff.

If you feel you have suffered damage due to clinical negligence, you will need to consult a lawyer to pursue legal action. The contact details for Action Against Medical Accidents (AvMA) – from whom you can get initial, free, confidential legal advice – are on page 6 of this guide. The Law Society can also provide details of how to get solicitors (Devon and Somerset Law Society, telephone 01392 366 333 or check their website www.dasls.com).

9. What if you are unhappy with the response to your complaint?

The formal response letter is not the end of the process. You can go back to the organisation with further questions or comments on their letter – this can be done in writing or by asking for meeting. If you are still not satisfied with the response to your complaint (and any follow-up letters or meetings) or the way in which the NHS has dealt with your complaint, you may decide to refer the matter to the Parliamentary and Health Service Ombudsman (PHSO), who is independent of the NHS and government. This is the second and final stage of the NHS Complaints Procedure. The PHSO will normally only consider complaints after all attempts to resolve the issues with the organisation have failed. The PHSO will usually want to see a letter (or an email) from the organisation to say that it cannot do any more to resolve the complaint (the organisation may say that 'the local resolution process has come to an end') – this is referred to as the organisation's 'final decision letter'.

The PHSO will need to know about:

- your complaint;
- when the events happened and when you complained;
- how it affected you;
- what you would like the PHSO to do to put things right.

If you have access to the internet, you can visit the PHSO website for more detailed advice about taking your complaint onto this stage (www.ombudsman.org.uk). The PHSO does encourage people who are able to use their online complaint service to do so. However you decide to contact the PHSO, you should have a copy of the NHS organisation's final decision letter available for reference or to send to them.

There are a number of ways you can contact the PHSO:

- look at the 'making a complaint' page on the PHSO website (www.ombudsman.org.uk) to complain online or download and print a paper form (<https://www.ombudsman.org.uk/making-complaint/complain-us-getting-started/complaint-forms>);
- by telephone via the PHSO Customer Helpline on 0345 015 4033 (open 8:30am to 5:30pm, Monday to Friday). You can request that they post a paper complaint form to you or they can take your complaint over the phone and send you a summary of it to approve;
- by email to phso.enquiries@ombudsman.org.uk;
- send a text message to the 'call back' service 07624 813 005;
- dial the textphone (Minicom) number 0300 061 4298 (for people with hearing or speech impairments who have a textphone) or call using Text Relay;
- write to them to ask for a complaint form:
The Parliamentary and Health Service Ombudsman
City Gate
51 Moseley Street
Manchester
M2 3HQ

10. Other resources

Healthwatch

Your local Healthwatch organisation may also offer free independent information or advice about how to have your say about local health and social care services, although they do not deal directly with individual complaints about the NHS. The aim of Healthwatch is to give communities a stronger voice to influence and change how health and social care services are provided locally. It enables people to share their views and concerns about their local health and social care services and to understand that their contribution will help build a picture of where services are doing well and where they can be improved. It also provides people with information about their choices and what to do when things go wrong; this includes signposting to our independent health complaints advocacy service.

Any personal data you give to SWAN will remain strictly confidential. We will, however, sometimes share with Healthwatch anonymised information relating to common issues that are raised with us so that Healthwatch can work with the NHS and the local authority to make improvements to services.

If you want to have your say about your experiences of health and social care, then Healthwatch Somerset can be contacted on 01278 264405, by email to info@healthwatchsomerset.co.uk or via the website at www.healthwatchsomerset.co.uk

Healthwatch also have a comments section ('review centre') on their website, which you can use to give feedback on any local services, such as a dentist, GP, hospital or home care service. Visit www.healthwatchsomerset.co.uk/services to leave your review. Your feedback can be anonymous if you prefer.

You can also write to Healthwatch Somerset at:

Healthwatch Somerset,
Suite 12, Wellworthys Business Centre,
Parrett Way,
Colley Lane,
Bridgwater,
TA6 5LB

Citizens Advice Bureau

Your local Citizens Advice Bureau can be a great source of advice and support if you want to complain about the NHS, social services or local authorities.

Integrated Care Board

Most ICBs have a complaints section on their website. Here you find details of when to make a complaint, what information to provide and to whom you should forward the complaint, depending on what type of service you want to complain about. Somerset ICB's complaints information can be found at <https://nhssomerset.nhs.uk/contact-us/complaints/>

11. Who to contact to make a complaint in Somerset

Health services in hospitals and the community are now provided by many different organisations or companies, so it is not always clear where to direct a complaint. SWAN, Healthwatch or the PALS service can give you more guidance. Sometimes Somerset residents are referred for treatment outside the county (e.g. Bath, Bristol, Exeter or London) – SWAN can still help you to find out where to complain and support you with complaints outside Somerset.

Taunton and Somerset NHS Foundation Trust runs Musgrove Park Hospital in Taunton.

Yeovil District Hospital NHS Foundation Trust runs Yeovil Hospital.

Weston Area Health NHS Trust runs Weston General Hospital.

Somerset Partnership NHS Foundation Trust is responsible for a wide range of community health, mental health and learning disability services. This includes the 13 community hospitals across Somerset, health visiting, district nursing, child and adolescent mental health, integrated paediatric therapy and a number of other specialist community services.

Somerset Integrated Care Board (ICB) plans and buys a range of health services for people in Somerset so is responsible for monitoring many of them. These include the NHS 111, Out Of Hours and patient transport or ambulance services and complaints about these should be sent to the ICB. Although the ICB commissions the emergency ambulance service, it operates its own complaints procedure – see below.

South West Ambulance Service NHS Foundation Trust (SWASFT) operates its own complaints procedure so you can send your complaint direct to them, but with a copy to the ICB.

NHS England

For complaints about community pharmacies, GP practices, dental surgeries and opticians, the first point of contact will be the individual practice (which will have its own complaints procedure). If you are not satisfied with the response, NHS England has the responsibility for dealing with formal complaints about these NHS funded services.

When you contact NHS England via email (england.contactus@nhs.net) ensure you state 'For the attention of the complaints manager' in the subject line. You should provide as much information as possible to allow NHS England to investigate your complaint, such as:

- your name and contact details;
- a clear description of your complaint and any relevant times and dates;
- details of any relevant healthcare providers or services;
- any relevant correspondence, if applicable.

12. Sample Complaint Letter

1 The Avenue
Anyplace
AT1 2AB
Tel: 010 232 3205
Email: JBloggs@abcmail.com
Jane Brown
Chief Executive
Anyplace NHS Foundation Trust
The Street
Anyplace AT1 2CD

Date of sending

Dear Jane Brown

NHS Formal Complaint by Mrs J Bloggs, DOB 19 May 1963, Hospital No. GB12345

I am writing to submit a formal complaint about the way I have been treated as a result of administrative system failures at St Marys Hospital.

Background to the Complaint

My GP referred me to Somerset NHS Trust for a colonoscopy on 20th February 2021. I was told that I would get an appointment in approximately 2-3 weeks. I received a letter dated 11th March telling me to attend clinic on 26th March at 10am. The letter contained a leaflet about the procedure, the relevant medication and instructions about preparations I had to make.

When I attended for the appointment, arriving at 9.45am, I said I was there for a colonoscopy. Staff said I was listed for a completely different clinic and my records were there. I showed them the letter and they said colonoscopies were not carried out there. At my insistence they phoned the Day Case Unit at Hospital and staff there said I was listed for the procedure at 11.15am but this had been put 'on hold' because my notes were not there. My letter clearly said Clinic.

Front line staff at both hospitals were as helpful as they could be under the circumstances. I was able to get my partner to drive me to Hospital and the procedure was carried out towards the end of the session at about 12.50pm. A biopsy was taken during the operation due to what was found and I was told that I would be contacted within a week and told the results if any follow-up was needed. Otherwise I should go back to my GP.

More than two weeks later I still had not heard. I tried repeatedly, but failed, to get in touch by phone with the right department at the hospital, and assumed that as I hadn't heard anything more it meant everything was OK, although I was still worried and my symptoms were worsening. So, the following week I contacted my GP to find out if she had any information. A letter had been received at the surgery, by email, a week earlier saying that further investigations needed to be done. It was only the persistence of my GP that

uncovered the fact that I should have been contacted to call me in urgently for further tests.

As a result of these administrative mistakes and problems, my urgent and essential treatment was delayed by more than 6 weeks, causing me great distress and anxiety as well as leaving me in pain and experiencing symptoms for much longer than necessary. I am still feeling unsure if the delay has caused longer term damage. I was told that I should have had the other tests within two weeks of this condition being identified.

I contacted the PALS team because I was so angry and upset. They couldn't answer my questions but told me about this formal complaints system and how I could use it to get an investigation into what has gone wrong.

Main Issues of Complaint

My main issues of complaint are the repeated administrative failures I experienced. This started with being sent to the wrong hospital, continued with difficulties in contacting the hospital and the failure to contact me with test results. This had a potentially serious effect on my ongoing health care.

I would like the following points addressed in response to this complaint:

1. Why was my appointment for a colonoscopy sent out telling me to go to a community hospital where these procedures were not usually carried out? Why was this not picked up before the letter was sent out?
2. Why did the computer system not identify that I was listed for two different clinics on the same morning in different places?
3. Why were voicemail messages I left on three different answerphones not replied to (I can give dates and approximate times of all the calls I made)?
4. Why was I not contacted after the colonoscopy to tell me the situation? What went wrong with the system and why?
5. What protocols or guidelines does the hospital have in relation to starting treatment or doing more tests for the condition with which I was diagnosed? Does the way I was dealt with comply with these guidelines or protocols?
6. Has the delay in starting my treatment affected my chances of a full recovery?

Outcomes from this Complaint

As outcomes to this complaint, I would now like:

- A full and thorough investigation into my complaint;
- Honest answers to all the questions I have asked, above, and explanations;
- Apologies for the mistakes which were made;
- To know what changes the NHS Trust will now make as a result of my complaint, so that other patients don't experience what I went through. Who will be responsible for implementing them and in what timescale?

I would like you to carry out a full investigation into my complaint in accordance with the NHS Formal Complaints Procedure.

Yours sincerely,
Mrs J Bloggs

13. Complaint Letter Template

PRIVATE AND CONFIDENTIAL

Insert your address and telephone number or email address

The Complaints Manager or Chief Executive of NHS Trust (name if known)

Followed by the name and address of their organisation

- GP
- Dental Surgery
- Hospital Trust

Date of sending

Dear ...

NHS Formal Complaint by Complainant Name, Address, Date of Birth (or name of Patient if complaining on someone else's behalf), address, hospital or NHS number

I am writing to make a formal complaint under the NHS Complaints Procedure about the treatment I received from *[name(s) of Staff if known]* at *[place where incident happened/treatment received]* on *[date of incident/period of treatment]*.

OR *[if you are acting on behalf of the patient]*

I am writing on behalf of *[insert name of patient]*, and I enclose their written agreement to act on their behalf.

[If the patient is unable to give consent for example, if they are too young, ill or deceased, then you should explain this].

Background to the Complaint

Briefly describe

- what led up to the events complained about;
- what happened (the incident or events);
- when;
- where.

If you have a log sheet, list of events or something that needs more detailed description, you can attach this as a separate sheet or appendix and refer to this here.

Explain what, if anything, you have already done to try and resolve matters.

Main Issues of Complaint

A very brief summary of the main points of your complaint

I would like the following points addressed in the response to this complaint:

- Put the most important matters first.
- Explain why you are not satisfied.
- Be clear and brief.
- Number or bullet your points.
- If appropriate, ask if there are any policies, protocols or guidance relevant to the events of your complaint and if they were followed.
- Ask the questions you would like the answers to and list them in order of importance.

Outcomes

As a result of this complaint, I would now like:

Say what you want to achieve, for example,

- An investigation into the circumstances surrounding your complaint;
- an explanation of what happened;
- an apology;
- to know what action will be taken to remedy the problem you experienced, by a named person, within a set timescale.

I would like you to carry out a full investigation into my complaint and provide a response in accordance with the NHS Formal Complaints Procedure.

Please do not hesitate to contact me if you need further information.

Yours sincerely

Your signature

Print your name

If you are sending copies of your letter to other parties, show this here:

c.c. Other party