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Complaints about Nosocomial COVID-19 - Frequently Asked Questions

We know that many members of the public are concerned about the way they, or their loved ones, caught COVID-19 when receiving care in NHS settings such as hospitals. COVID-19 infection caught in an NHS setting is known as 'nosocomial' COVID-19. This factsheet answers some common question about how the NHS and our office looks at complaints about nosocomial COVID-19.

Background

National Nosocomial COVID-19 Programme and Framework (the National Framework)

The Welsh Government has set up National Nosocomial COVID-19 Programme and a National Framework to support it [\[1\]](#). The National Framework is supposed to make sure that the NHS investigates incidents of nosocomial COVID-19 infection and addresses concerns raised by patients and their families. An investigation should be done into all incidents of nosocomial COVID-19. The NHS Wales Delivery Unit oversees how NHS providers implement this Framework.

Putting things Right

Putting Things Right (PTR) is the NHS's guide to handling complaints about health services. PTR includes guidance on investigating complaints and on patient safety incidents.

The relationship between the National Framework and PTR

When a patient catches an infection in hospital or another healthcare setting, this is considered a patient safety incident. This means that NHS providers must look at incidents of COVID-19 infection caught in hospital or other healthcare settings in line with the PTR process.

Often, NHS providers will identify such patient safety incidents themselves. Sometimes, the patient, family or their representative will complain about the same incident. However they learn about the incident, NHS providers must carefully assess if they need to investigate it. They should work closely with the complainants to make sure that any investigation reflects their wishes and views.

Our role

We look at complaints from members of the public that Welsh public services got something wrong. This includes healthcare services.

For us to uphold a complaint, we must see convincing evidence that something has gone wrong **and** that this had a negative impact on the person who complained to us, or someone they represent.

Sometimes we will investigate such complaints, but often we try to resolve them early.

We are independent of the Welsh Government and the NHS and our service is free to use.

Frequently asked questions

. How long can an NHS provider take to investigate my case under the Framework?

The plan is for the National Framework to be in place for 2 years. Investigations under the Framework may start at different times over that period.

The time the investigations take should be in line with the PTR requirements. Generally, the complaints team should respond to you within 30 working days of receiving your concern – although in complex cases this may take up to 6 months. If the provider cannot meet these timescales, they should explain to you why and when they are likely to respond. We understand that providers are under pressure at the moment, but we do expect them to communicate well and clearly with complainants.

. How is it decided whether COVID-19 infection was caught in a health care setting?

There are established national (UK) definitions, which set out how likely it is that an infection is caught in a healthcare setting.

Generally, nosocomial COVID-19 is suspected if a patient tested positive for COVID-19 after 8 days of being in healthcare setting.

However, this will not always be the case. The incubation period of COVID-19 and other risk factors, such as exposure to the virus may influence when the person tested positive. NHS providers will look at factors like this when they investigate.

. How will NHS providers communicate with patients and their families?

We expect NHS providers to be in contact with patients and their families where moderate harm or above is considered, or where patients or their representatives have raised a complaint. However, they may do it differently depending on the situation. Some may write; others may make telephone contact first, before following up with letters.

They should tell patients and their families who is their point of contact throughout the process.

All patients and / or their families should receive a final letter explaining how the provider investigated their case and what it has decided.

. Have investigations under the National Framework already started?

Health Boards and Trusts in Wales have already started some investigations under the National Framework. The Welsh Government expects that it will take at least two years to carry out all the investigations that may be needed.

. The provider sent me a letter saying that it considers that there may be a

qualifying liability and that it may offer me financial redress (also known as a “Regulation 33 letter”). Can I still complain to you?

If you received this letter, it may be better for you to go through the provider’s PTR redress process. This may give you access to free and independent legal advice.

• When can I complain to you about nosocomial COVID-19?

You can complain to us if

- an NHS provider reviewed or investigated how you or a family member caught COVID-19 in hospital or another healthcare setting under the National Framework and you are unhappy about their decision.

or

- you complained to an NHS provider that you, or a person you represent, caught COVID-19 in a hospital or another healthcare setting. The provider gave you their response under the PTR process and you are unhappy with that response. If that happens, we may refer your case back to the NHS provider so they review your case under the National Framework. You can still complain to us later if you are unhappy when that review has been done.

• What kind of issues can you consider?

If we can look into your complaint, we are only likely to investigate if we consider that it is more likely than not that you, or the person you represent, caught COVID-19 in hospital (we may never be able to say that for certain).

When we look into your complaint, we will consider if:

- the infection happened because the care and treatment did not meet specific COVID-19 guidelines and policies in place at the time.
- it is more likely than not that any harm suffered by the patient after contracting COVID-19 was caused by COVID-19 or that COVID-19 made things worse.

You can also complain to us if you think that the provider did not follow the right process when they investigated your case (for example, they did not look at all the relevant evidence, or did not follow all the right investigation steps).

. How long do I have to complain to you?

We generally need to receive your complaint within a year from when the incident happened – or when you found out that the incident happened.

However, if an NHS provider looked at your case under the National Framework, and you are unhappy with its decision, we need you to complain to us within one year from the date when the provider told you about the decision.

If we believe there is a good reason, in rare cases we can accept your complaint if more time has passed. However, we encourage you to complain to us as soon as possible after you received a response from the provider under the National Framework or PTR process.

. What happens once you get my complaint?

We will first assess if we can look into your complaint. For example, we need to make sure that you complained to us within the required time. If we cannot accept your complaint, we will tell you why.

Once we have accepted and looked into your complaint, if we think that something has gone wrong we may try to resolve the issue early. We will then ask the provider to take some steps to put things right. We will let you know what steps we have recommended.

Sometimes, we decide that we need to investigate a case further. We will write to you and the provider to explain exactly what we want to look at during the investigation. A member of staff may call you to discuss this as well. We will mostly look at written evidence, but sometimes we may want to interview people or gather additional information.

. Will I get compensation?

We do not award compensation. If you want compensation then you may need to speak to a solicitor. We do sometimes recommend small amounts of [financial redress](#) and we have more information about that on our website.

. Advocacy support

You may feel that you need support to be able to complain to the NHS provider. From April 2023, Llais will represent the voices and opinions of the people of Wales in respect of health and social care services. Llais will support people throughout Wales with advice and assistance when considering or making a complaint about their care and will also be able to support you with complaining to us.

You can find out more about Llais [here](#).

• How do I complain to you?

You can

- fill an online complaint form on our website here:
<https://www.ombudsman.wales/>
- download our complaint form and send it to us by email (ask@ombudsman.wales) or post (The Public Services Ombudsman for Wales, 1 Ffordd yr Hen Gae, Pencoed, CF35 5LJ)
- call us on 0300 790 0203
- write to us at the address above.

When you complain, make sure you include a copy of the final response that you got from the NHS provider under the National Framework or PTR. If you don't have that response, we will ask you to explain why.

Please also include any other documents that you think may be relevant. It helps us to consider your complaint faster if the evidence and information that you send us is clear and concise.

Please let us know if you need any support from us to be able to submit your complaint. For example, we can give you information in different formats, translate it for you into another language, or help you find an advocacy organisation that could help.

• Further information and contact details for organisations involved with the delivery and oversight of the NCCP

Aneurin Bevan University Health Board	<u>Nosocomial Covid-19 Review: Investigating and Learning from Cases of Hospital Acquired Covid-19 – Aneurin Bevan University Health Board (nhs.wales)</u>
Betsi Cadwaladr University Health Board	<u>Incidents of Nosocomial COVID-19 – Betsi Cadwaladr University Health Board (nhs.wales)</u>
Cwm Taf Morgannwg University Health Board	<u>National Nosocomial COVID-19 Programme – Patient and Family: Frequently Asked Questions</u>
Cardiff and Vale University Health board	<u>COVID-19 Investigations – Cardiff and Vale University Health Board (nhs.wales)</u>
Hywel Dda University Health Board	<u>FAQs – Hywel Dda University Health Board (nhs.wales)</u>
Powys Teaching Health Board	<u>Nosocomial Covid-19 Patient Safety Review Team – Powys Teaching Health Board (nhs.wales)</u>
Swansea Bay university Health Board	<u>Nosocomial COVID-19 reviews – Swansea Bay University Health Board (nhs.wales)</u>
Velindre NHS Trust	<u>Nosocomial COVID-19 Programme – Patient & Family FAQs – Velindre University NHS Trust</u>
NHS Delivery Unit	<u>National Nosocomial COVID-19 Programme – Delivery Unit (nhs.wales)</u>
Welsh Government	<u>National nosocomial COVID-19 programme: patient and family</u>

[1] The National Nosocomial COVID-19 Programme (NNCP), underpinned by the NHS Wales National Framework – Management of Patient Safety Incidents following Nosocomial transmission of COVID-19 (“the Framework”) [20211104 – NHS Wales national framework – Management of patient safety incidents following nosocomial transmission of COVID-19.pdf](#)