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# What we do when we get a complaint about a NHS dentist, optician or pharmacy

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## Introduction

This factsheet seeks to answer some frequently asked questions about what happens when we receive a complaint about the service provided by any independent NHS primary care provider (this includes, for example, a dentist, optician, or pharmacist). It does not cover every detail about what we do but more information is available at [www.ombudsman.wales](http://www.ombudsman.wales). If you have any questions which are not covered in this factsheet, please contact the person who is dealing with the complaint, who should be able to help you.

## Contact from our office before an investigation starts

All new complaints are considered by our Assessment Team, who will be responsible for the initial assessment of a complaint. At this stage, one of the Team may contact you about the complaint requesting additional information about the complaint. Please note that we would not be expecting you to contact the complainant at this point.

## **What aspects of service can we consider?**

We can consider complaints about service failure or maladministration in relation to any service provided and funded in full or in part under an NHS contract. Examples of this would be concerns about NHS eye examinations, NHS dental care or relating to dispensing NHS prescriptions. Members of the public can approach us if they remain unhappy with the response they have received to their complaint. We expect any complaint to have been made to you, as the provider, in the first instance so that you have had the opportunity to respond to it and resolve it.

## **Do we have the authority to request a patient's complaint information at this stage?**

Our formal power to require your organisation to provide information only takes effect once an investigation has been started (see below). However, we also have powers to take action in addition to, or instead of conducting an investigation, which may include obtaining information required to determine whether to start an investigation.

Where we request information from your organisation, which may include clinical records, this information will be required for the performance of the statutory function set out in the Public Services Ombudsman (Wales) Act 2019 ("the Act"). In line with Data

Protection legislation, we do not normally obtain the individual's consent on the basis that we are performing our public task, as set out in our governing legislation. The individual is informed of this approach in the relevant Privacy Notice, provided at the outset for their complaint.

Where an individual is complaining on behalf of a third party, and we are seeking the third party's information, we will be able to provide proof of authorisation upon request.

## **Why do we ask for a copy of the complaint correspondence?**

We do this because we need to be sure that you are aware of the complaint and you have had an opportunity to respond to the complaint. This is an expectation under our legislation if we are to eventually investigate the matter.

## **Why do we sometimes request a patient's clinical/medication records?**

It is often possible to determine on an initial assessment whether there is any value in investigating a complaint or not. However in order to do so sometimes we will need to have access to the relevant records. It should be emphasised that we would only do this when we expect the information to be easily accessible.

## **Why do we sometimes ask to have sight of your contract with the Health Board?**

We do this because under our legislation, we can only investigate complaints about services provided under an NHS contract. Services can be provided under contracts with individual practitioners, partnerships or companies. Where there may be

doubt about who is the named contractor, we may ask you or the Local Health Board for a copy of the contract to check who is responsible for providing the service.

## **What happens when an investigation starts**

The Assessment Team may decide that it is appropriate to transfer the complaint to the Ombudsman's Investigation Team to further consider the merits of conducting an investigation. An Investigating Officer may then contact you to discuss the matter or to commence an investigation.

## **What information will we ask for at the start of an investigation?**

Generally speaking, an investigator will not ask for any information that has already been provided. However additional information could be requested such as clinical records; relevant company policies; an account of actions you have taken following your own complaint review and so forth.

## **Will you have to provide the information we request?**

During an investigation we have the same powers as the High Court to require any person to provide documents relevant to the investigation or attend as a witness.

## **What are the clinical standards we will apply when considering the complaint against your organisation?**

We will consider whether the care and treatment you provided is appropriate in the circumstances at the time of the matters that led to the complaint. More details on the clinical standards we apply can be found on the 'Clinical Standards' page, under the 'For Service Provider' tab (<https://www.ombudsman.wales/clinical-standards/>). We will ask you for comments about the standards that were applied in delivering the care complained about, at the outset of any investigation. If the complaint relates to clinical care and treatment, we will usually ask one of our Advisers to provide a professional opinion on the care provided.

## **Why do we sometimes invite you to settle the complaint?**

Sometimes it is possible that you could take some action (such as a more comprehensive explanation) that would resolve the complaint without proceeding to formal investigation.

## **What happens if you decide to seek assistance from a defence union or similar?**

Sometimes some of those involved may decide to seek advice from their defence union. This is absolutely fine although we would ask you to ensure that any action you take to involve such parties does not unduly delay any response or information you have been asked to provide. It is also important that any evidential response we receive is from the organisation or individual we have approached.

## **What should your organisation do when we ask for information about a patient who is no longer a patient of yours or is deceased or is about a matter unrelated to your organisation?**

At the outset of the investigation, we may not know what information you retain and what information has been transferred elsewhere or to the Health Board (in the case of a deceased patient). If you hold the information, then we have the power to require you to provide it regardless of whether it is your organisation that is subject to the complaint. If, on the other hand your organisation does not hold the information, please let us know as soon as possible and indicate who the information has been transferred to.

## **Will we interview those involved?**

Generally speaking it is possible to investigate a concern on the basis of documents alone. However, the Investigator may consider it necessary to speak with those involved in the complaint, either over the telephone or face to face. It is also possible for you to request a meeting with the Investigator to discuss the complaint. There is an additional explanatory leaflet for those we have asked to attend an interview. It is available on our website.

## **Will we give you an opportunity to comment on our findings and conclusions?**

Yes – before concluding an investigation you will be given the opportunity to comment on the proposed findings and conclusions of the investigation, and if any recommendations are made you are invited to agree them. It is important when commenting at this stage that you make clear whether you are prepared to accept any recommendations made as this will determine how the investigation is concluded. It is important in considering any recommendations that you are confident you are able to implement them when agreeing.

## **What will happen if you are unwilling to accept our recommendations**

The clinical recommendations we make are normally endorsed by our experienced advisers. Generally, we find that organisations tend to accept our recommendations without significant challenge. However, if your organisation is unwilling to accept the recommendations we make (and we disagree with the reason you provide for that refusal) the Act is clear that in such cases, the Ombudsman will publish her report of the investigation under Section 24 of the Act which may be made available to the public.

## **Will the individual clinicians be named in the final report?**

It is not our practice to identify any individuals in reports which are made available to the public (on request) or to other interested parties. The report will not usually identify the company or partnership contracted to provide the service under the NHS contract although the Local Health Board area they are located within is identified.

## **Why do we sometimes recommend financial redress?**

It is not our role to act as a compensatory body and our recommendations in terms of providing redress to an individual who has suffered an injustice is geared as much as possible, towards, returning the individual or their family to a position where they would have been in if the service failure had not happened. This can include redress for worry, distress or uncertainty as to the effect of any shortcoming identified.

# Supporting you throughout the complaint process

Our service is independent and impartial, and this will be reflected in the tone of our correspondence with you. That said, we do understand that receiving contact from us can be daunting, particularly if you have not dealt with the Ombudsman before or if you are a small organisation. Please do feel free to contact the officer dealing with your complaint if you have any questions about what is involved or what we are asking you to do. If we start an investigation into a complaint against your organisation we would be willing to arrange a telephone call or meeting with you to discuss the concerns being investigated and our process in more detail. Please contact the Investigating Officer if you wish to arrange this.

Each health board has a liaison officer who acts as a point of contact with our service. They may also be able to help you with any questions you have. We are required under our legislation to notify the relevant health board if we start an investigation into a NHS Primary care provider in their area and also to share the final report with them. If you feel it would be helpful for us to involve the health board, please let us know and we can discuss that with you.

## Contact us

If you are unsure whether we would be able to look into your complaint, please [contact us](#) on 0300 790 0203.

Also available in Welsh.