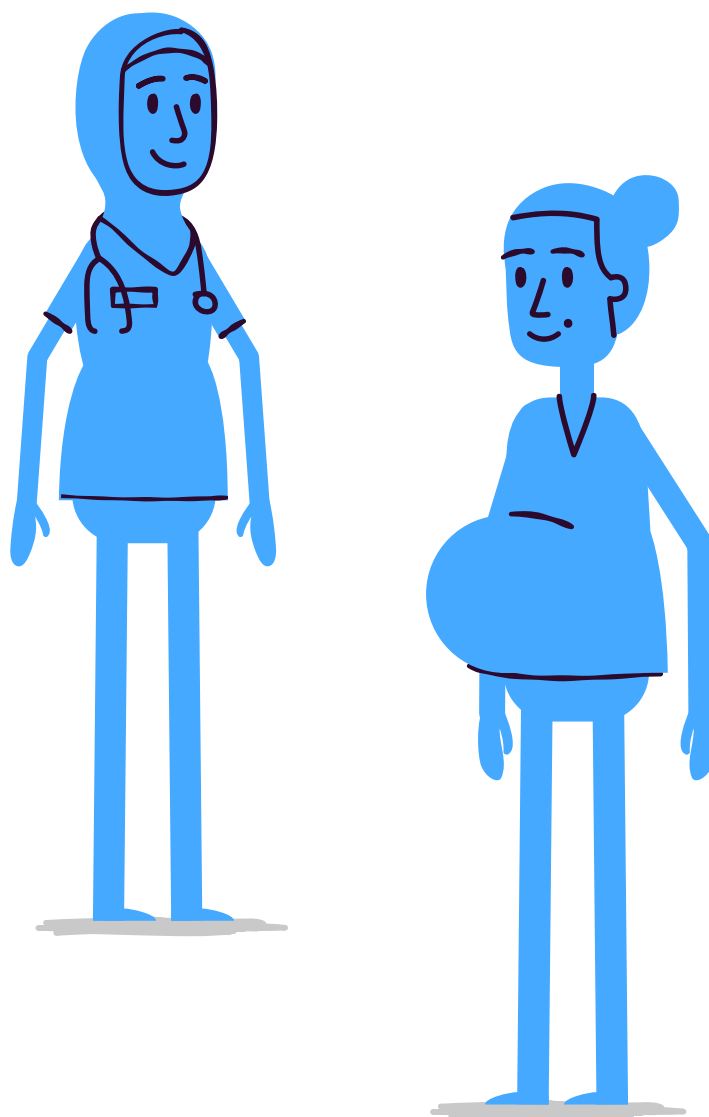
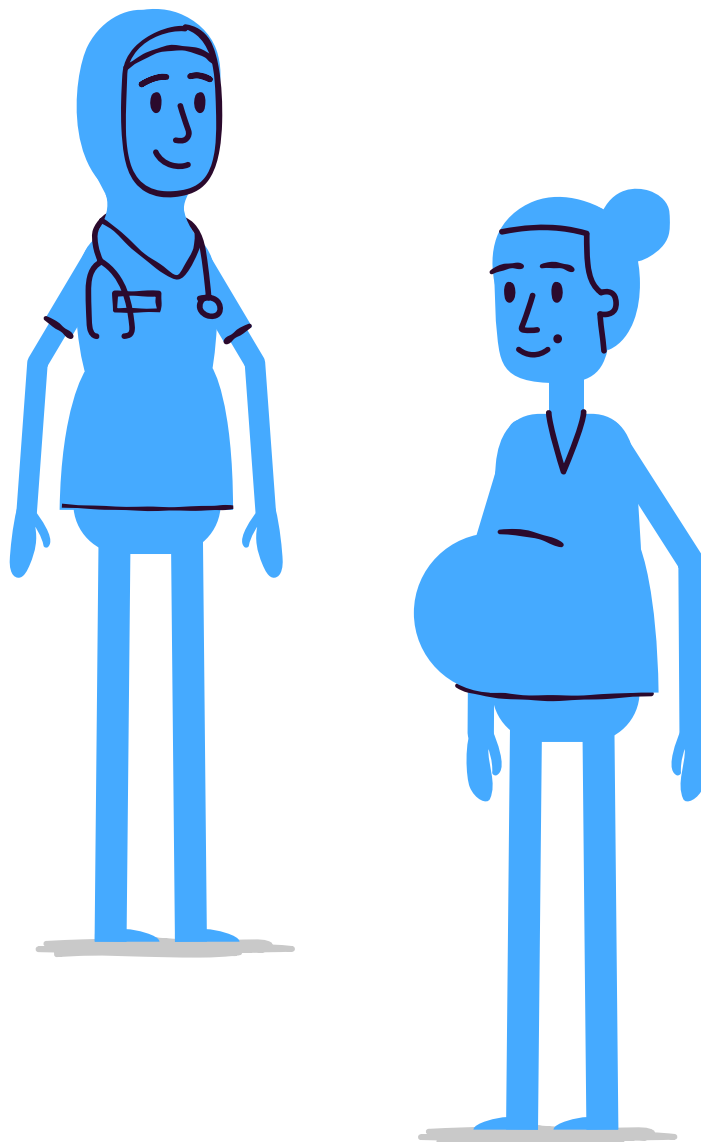


# A closer look: clarifying the complaint and explaining the process



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# Welcome to this guide

This guide is one of the Good Complaint Handling series. These are designed to help you meet and deliver the expectations in the [NHS Complaint Standards](#).

The guide explains how to clarify and understand a complaint and how to explain the complaints procedure. This module explains how to:

- acknowledge the complaint
- clarify the issues to be considered
- understand the impact and the outcome sought
- explain the process and timescales for investigation.

Read this guide alongside the [Model Complaint Handling Procedure](#). You can find guides on related topics on our [website](#).

# What standards and regulations are relevant to this guide?

- [The Complaints Standards](#) set out expectations to help you deliver good complaint handling in your organisation.
- The [Local Authority Social Services and National Health Service Complaints \(England\) Regulations 2009](#) set out what the law says you must do.

## What the Complaint Standards say

### Welcoming complaints in a positive way

- Staff respond to complaints at the earliest opportunity and consistently meet expected timescales for acknowledging a complaint. They give clear timeframes for how long it will take to look into the issues, taking into account the complexity of the matter.

### Being thorough and fair

- Staff actively listen and demonstrate a clear understanding of what the main issues are for the person who has made the complaint, and the outcomes they seek.
- Staff make sure everyone involved in a complaint (including those specifically complained about) knows how they will look into the issues. This includes what information complaints staff will need, who they will speak to, who will be responsible for providing the final response and how they will communicate their findings.
- Staff discuss timescales with everyone involved in the complaint and agree how people will be kept informed and involved. They provide regular updates as agreed with the parties, throughout.

The relevant Regulations that apply are [The Local Authority Social Services and National Health Service Complaints \(England\) Regulations 2009](#) and the [Health & Social Care Act 2008](#) (Regulated Activities) Regulations 2014 (the 2009 and 2014 Regulations).

What the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 say

At section 13, paragraphs (3), (4) and (5), the 2009 regulations say:

‘The responsible body must acknowledge the complaint not later than 3 working days after the day on which it receives the complaint. The acknowledgement may be made orally or in writing.’

At section 13 paragraph (7), they say:

'At the time it acknowledges the complaint, the responsible body must offer to discuss with the complainant, at a time to be agreed with the complainant -

- a. the manner in which the complaint is to be handled; and
- b. the period ('the response period') within which –
  - (i) the investigation of the complaint is likely to be completed; and
  - (ii) the response required by regulation 14(2) is likely to be sent to the complainant.

(8) If the complainant does not accept the offer of a discussion under paragraph (7), the responsible body must –

- a. determine the response period specified in paragraph (7)(b) and
- b. notify the complainant in writing of that period.'

# What you need to do

This section takes you through in detail the various steps you need to go through when you first receive a complaint. Much of this is about good communication, to make sure you understand:

- the issues being complained about
- the impact of the events
- the outcome that the person wants
- the importance of building trust and confidence.
- Acknowledge the complaint

When you receive a complaint, the first thing you must do is acknowledge it.



The 2009 regulations say that your organisation must acknowledge the complaint no later than three working days after the day you receive it. You can do this verbally, electronically or in writing.



If you receive a verbal complaint (by phone or face to face), you need to write it down and share a copy of it with the person who has made the complaint. This will enable them to check that you have captured the matters to be investigated correctly.



Ask the person making the complaint (or the person they are representing) for appropriate consent to handle the complaint. This is especially important if the complaint will need input or investigation from parties or organisations outside your own.



Give the person who has made the complaint the name of someone who will be their point of contact throughout the complaints process.



Make your complaints procedure available in accessible formats.



For each case, think about whether you will need to make reasonable adjustments to procedures to meet the individual needs of the person making the complaint.



If you do make any adjustments, make sure you keep a record of them. If the person requests an adjustment and you refuse it, keep a record of the reasons for this too.



**Find out more** See the guidance on [Who can make a complaint, consent and confidentiality](#).

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### Hold the initial discussion

If you are the person who will carry out the investigation, always offer to talk to the person who has complained. Where possible, do this face to face or by phone. However, take into account the person's preferred methods of contact preferences and reasonable adjustments that you have agreed.

The initial discussion has a number of purposes:

- to make sure, before you carry out your investigation, that both of you fully understand and agree on:
  - the main issues that need to be considered
    - what impact the issue has had
    - what outcomes the person wants
- to signpost the person to local and national support and advice services, including independent advocacy services
- to agree the preferred method of communication of the person making the complaint and any reasonable adjustments that you might need to make
- to discuss a realistic timeframe (depending on the complexity of the complaint and what work is likely to be involved in carrying out the investigation) for:
  - how long it is likely to take
  - how you will keep them regularly informed and engaged throughout
  - when they can expect to receive a response.

You need to explain the following:



Explain that if you cannot meet these timescales, you will let them – and anyone else involved – know as soon as possible.



Set out how you intend to carry out the investigation, including:

- how and when you will get their evidence
- what other evidence you will search for and consider
- who you will speak to
- how you will determine whether something has gone wrong or not
- who will be responsible for the final response and how they will communicate that response.



#### **Find out more**

For more information on timescales see the guidance [A closer look: carrying out the investigation](#).

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To help you prepare for that conversation, use the [step-by-step guide](#) as a quick-reference summary.

### **Holding the initial conversation: step-by-step guide**

1

#### **Step 1:**

Introduce yourself and explain your role.

2

#### **Step 2:**

Check whether it is a convenient time to talk about the complaint. If not, agree an alternative date and time.

3

#### **Step 3:**

Acknowledge the individual circumstances of the complaint and how the person making the complaint says they have been affected by it.

4

#### **Step 4:**

Explain what stage the case has reached in the process. Explain that the purpose of your call is to check your understanding of the complaint and to tell the person what happens next.

5

#### **Step 5:**

Agree and record how they would prefer to be contacted. If they ask for a reasonable adjustment and you cannot agree to this straight away, explain how you will consider this.

6

**Step 6:**

Ask for any other information you need to understand the circumstances of the complaint (for example, if there was a delay in making the complaint then the reasons for this).

7

**Step 7:**

Check if the person is happy to talk about their complaint there and then, or if they would like you to arrange another call.

8

**Step 8:**

If the person is happy to talk now, discuss the complaint in more detail to make sure you fully understand their concerns. If anything is unclear, ask questions.

9

**Step 9:**

Make sure you ask about, and record, how the events have impacted the person complaining (or the person they represent). Ask what the main issues are that they want you to look at, and how they feel about what happened.

10

### Step 10:

Ask what the person wants to happen as a result of their complaint and what would put things right for them. If they have not thought about this, give them time to think it through. You could even offer to call back the next day, to give them time to reflect.

If the person is still uncertain, give them some examples of what could happen as a result of the investigation. For example, they might want your organisation to:

- explain what happened and acknowledge any failings
- apologise for, and recognise, the impact of any failings
- revisit a decision that has already been made
- provide staff training
- change policies or procedures
- explain what actions it will take to improve services, so this situation does not happen to anyone else.

11

### Step 12:

Based on what they are looking for, consider whether their complaint can be resolved quickly – for example, by making an apology or taking further action.

12

### Step 13:

Help the person manage their expectations. If the outcome they are looking for is unlikely to happen – such as someone being dismissed, or an unrealistic financial compensation – be honest about this. Instead, explain what outcomes might be possible and try to reach agreement on what could be a good outcome.

13

### Step 13:

Once you are clear about exactly what you are going to investigate, explain how you will approach this. For example:

- the evidence you will look at
- who you will speak to
- how you will decide whether something has gone wrong, or not.

14

### Step 14:

Tell the person that you will keep them involved and share what you have found before you send a final response.

15

### Step 15:

If you need to, agree on a time to talk to the person again, to make sure you have full details of what they say happened and any additional evidence.

16

### Step 16:

Explain how long you expect it will take to complete your investigation. Make it clear that this is an estimate and that you will let them know if anything changes.

17

### Step 17:

If you need to, confirm anything you have said you will do, such as passing on a message to a colleague.

18

**Step 18:**

Agree how, and when, you will next be in contact with an update. Share your details so the person can contact you with any questions.

19

**Step 19:**

Make sure the person knows they can access help, advice and support, if they need it, from your local NHS advocacy provider – and how to contact them.

20

**Step 20:**

If the person already has a representative, agree on how you will communicate with them, and how often, throughout the investigation



**Tip:** If the person does not accept the offer of a discussion, write to them instead. Cover all the points set out above, including a suitable and realistic estimate of how long it will take to finish the investigation and provide your response.

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## How to approach the conversation

All your verbal and written communication should be polite, sensitive and empathetic, to build rapport with the person who has made the complaint.



During your conversation, listen carefully to the person making the complaint.



Avoid giving immediate answers until you have had a chance to look into the matter properly. Instead, focus on making sure you understand what the problem is. If you are not clear, ask questions.



Try not to make assumptions. Everyone reacts differently to different situations, so you need to ask.

One approach is to reflect the language the person uses, focusing on any emotive words. For example, they may say that delays in being seen by a specialist have been 'a nightmare'. You can reflect this language back saying something like 'I've heard you say this has been a nightmare for you – could you tell me a little more about how that made you feel?'

# Checklist: Effective communication

## Build trust and confidence

- Refer to the person formally, unless they tell you otherwise.
- Write or speak in a tone that is natural and friendly but respectful and professional.
- Give the person the time they need to share their thoughts.
- Practise active listening by focusing on what they say, imagining events from their perspective, and asking questions to clarify.
- Check your understanding of what the person tells you, giving them the chance to correct what you have said so that you have a shared understanding.
- Manage difficult conversations through good call-handling techniques, in line with your organisational policies.

## Show empathy

- Acknowledge how the person says they have been affected, how they feel and any injustice they say they have experienced.
- Repeat words and phrases the person uses in their communication to show you have listened carefully and have understood what they have told you.
- Thank them for taking the time to share their concerns and for sharing what might have been upsetting events.
- Acknowledge that talking about the event may have been difficult for them.

## Stay organised

- Plan communication in advance, where possible – for example, by booking in phone calls ahead of time.
- Follow the person's communication preferences and any reasonable adjustments that you have agreed to.
- If you have any planned leave, share these dates in advance.
- Keep a record of conversations on your case management system or complaint file.
- Provide regular updates, using a method of communication, and time, that suits the person making the complaint and anyone else involved. This helps make sure everyone understands what is happening.
- Agree on a reasonable timeframe within which you will return the person's calls or emails (usually 48 hours).

## Acknowledge the impact

Acknowledging impact and how someone is feeling does not mean you accept that you, or your organisation, have failed or made a mistake. All you are doing is showing someone that you are listening, and you understand how this situation has made them feel – regardless of whether your organisation is at fault or not.

## Agree on the desired outcome

Often, when someone first makes a complaint, they have not thought about what outcome they are looking for. During the first conversation, it is very important to support them to think this through so you both understand what a good end to the process might look like for them.

If the person is not sure what they are looking for, give them time to think about it. You can arrange another call if they need more time or an opportunity to talk to friends and family. If they ask, you could explain the sort of outcomes that usually come from investigations, such as:

- an acknowledgement that something has gone wrong
- an explanation to help them understand what happened
- a meaningful apology
- revisiting a decision that has already been made
- training and support for staff
- changes to policies and procedures
- improvements to a service so that what happened to them (or the person they are complaining on behalf of) does not happen to somebody else.



**Tip** Ask the person how they would feel if you provided what they are asking for. For example, someone might say initially that they just want an apology. But over time, they may decide that they really want your organisation to learn from what has happened.



### Find out more

See also our guide on early resolution.

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## Manage expectations

People come to the process with a range of expectations.

**Scenario:** An elderly patient is denied pain relief at a time when she is in extreme pain. Her daughter makes a complaint and says they would like this member of staff to be sacked.

In your response to the above scenario, you need to explain that this is unlikely to happen through the complaints process – but that if you find that the correct process wasn't followed, you may recommend:

- an apology
- pain management training for the member of staff
- improvements to procedures to make sure this doesn't happen to other patients.

This gives the person a chance to reflect. Then together, you can agree on a more realistic outcome for them.

## Explain the process

Once you are clear about the matters you are going to investigate, explain the steps you will take. These could include:

- how and when you will receive the evidence from the person
- what other evidence you will search for and think about including
- who you will speak to
- how you will look into the matter to see whether something has gone wrong
- who will be responsible for the final response
- how that final response will be communicated.

Share as much information as you can at this stage. This reassures the person that you will carry out your investigation fairly and transparently. It also gives them some idea of what your final response may look like and what it will include.



### Find out more

See the guidance on [A closer look - carrying out the investigation](#).

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## Set out likely timescales

The 2009 regulations say that in your initial discussion, you must give a realistic idea of how long the investigation is likely to take. You must also estimate when you will probably be able to send your final written response.



For each investigation, decide your estimate on a case-by-case basis. Consider:

- how complex the case is
- how much work is involved.



Agree how, and when, the person will hear from you next and how you will keep them updated throughout the process.



Explain how you will involve them fully in the complaints process, so that they always know what is happening and feel in control of their complaint. People can get frustrated and angry if they do not know what is going on and what is going to happen next.







Always be open and honest, and always deliver on your promises.

- If someone has given consent for a representative or advocate to act on their behalf, make sure all parties understand the communication arrangements. For example, whether you will communicate with the representative, or whether you will send communications to both the person and their representative.

## Ensure confidentiality

Maintaining confidentiality is essential when you are handling complaints. This includes respecting the confidentiality of the person making the complaint and anyone they represent.

-  In your initial conversation, explain clearly how you will respect the person's confidentiality.
-  Always keep complaint records separate from medical and other patient records so other people do not access them.
-  Confidentiality does not mean secrecy. Always tell a staff member when you have received a complaint that relates to them unless there is an overriding reason not to.
-  When you are handling a complaint always bear in mind [data protection rights](#) and the [duty of candour](#).

If you would like this document in a different format, such as Daisy or large print, please contact us.

**Let's make  
complaints  
count!**

