

Part 1 - MAKING A DECISION

Most of the time the NHS does a great job of taking care of us and our loved ones, but there also can be circumstances where we may feel that it has failed in some way. It may be some action or lack of action by health professionals working in the NHS who, in our opinion, have contributed to the death of our child. In these circumstances, we may wish to make a complaint.

This is the first in a series of fact sheets providing a summary of the complaints procedure in England as of 2017 from the perspective of a bereaved parent. This page gives a brief overview and some advice on reaching a decision on whether to complain or not. Please see Part 2 for information about starting the complaints process, and Part 3 for a description of the process and what you can expect.

A PARENT'S RIGHT TO COMPLAIN

If you are unhappy with NHS care or treatment your child received you have the right to:

- make a complaint;
- have that complaint investigated; and
- be given a full and prompt reply.

No matter the age of your child, as a parent you can complain after their death. However, if he or she was an adult and had a partner, you will likely want to involve them.

“DO I REALLY WANT TO COMPLAIN?”

The decision to proceed with a complaint is entirely our own. Here are some of the factors we may want to consider:

What is involved in the process

- We should not underestimate the emotional and physical strain of going through a full complaints process. It may involve us re-living repeatedly some of the most difficult moments of our child's life, and our own.
- The process will often involve us having to get into the details of our child's life, problems and care. For instance, reading their medical records and finding out details we might not have realised. This can be very difficult.

Being realistic in our expectations

- We should be realistic about what we aim to achieve by making a complaint. A complaint can help us better understand what happened, and importantly, can also allow the professionals involved to learn lessons and potentially prevent such tragedies happening again. This can be a positive outcome.
- However, we must also bear in mind that for every situation where the NHS could have done things differently, there are many other occasions when they were not at fault. There are sadly circumstances where despite all efforts, there was nothing more that could have been done to change the outcome.
- As a bereaved parent, it is natural to seek someone to blame for the tragedy of our child's death. We need to be honest with ourselves as to whether a complaint is justified. Sometimes it can be helpful to talk this through with someone neutral, such as a trusted friend or colleague, or perhaps a grief counsellor if we are seeing one.

The impact on our grieving and on our families

- The complaints process can be lengthy and thus keep us with a focus on our child's death rather than their life and who they were. It can even feel like we are putting our grief on hold if we find ourselves investing so much time and energy getting through the complaints process.
- In some cases there can be disagreement within a family as to whether or not pursue a complaint, and this can cause tension at an already difficult time.

The outcome

- The conclusion of the complaints process, no matter how far we take it, may not be what we wish for. There may come a point when there is nowhere else to go with the issues. This can be difficult to accept. We may

feel disappointed, especially if we thought that the complaints process would bring us some resolution. It is often not the case.

- The bottom line is whether the complaints process is satisfactory or not, it will not bring our child back. Although this is obvious, it might not truly sink in until the process is over. It can feel like another loss.

FORMAL OR INFORMAL COMPLAINTS

Starting informally

- Before making a formal complaint, you may wish to consider making an **informal** complaint, for example, arranging to meet with the person in charge or the person involved with your child's care. In a GP surgery, this may be the practice manager. In a hospital, it may be the person in charge on the ward or the clinical director of the hospital. (In fact, before you can even proceed with a formal complaint, it is sometimes necessary to have done this informal step.)
- This approach could be verbal or in writing, and it can be a good starting point. Being able to meet with the people responsible for looking after your child is a way in which you can ask questions directly and sometimes gain a better understanding of the events leading up to your child's death. This is useful even if you are unsure if something went wrong or not with your child's care.
- If you do meet, call or write, prepare with a clear list of questions you wish to raise. Take a family member or friend with you if possible who can help by making notes of the meeting.

Formal complaints process

Please see the next two Factsheets for information about the formal complaints process, including organisations that can help.

TAKING LEGAL ACTION

- A complaint is not the same as taking legal action. Legal action would be for cases of clinical negligence, which means that a person has suffered injury – and in this case death - as a result of the actions of the healthcare provider. For example, the wrong type of drug was used, there was not adequate warning about the risks of specific treatment, or the provider failed in their duty of care in some way, such as a person in psychiatric care not receiving adequate supervision.
- Legal action can possibly result in an apology and/or compensation, but it will not necessarily result in a healthcare provider changing their processes.
- You don't have to use the NHS complaints procedure before starting legal action, but you may find it helpful to use it to find out more about what has happened. You can then make a more informed decision about whether to go ahead with a clinical negligence case.
- If you are considering taking legal action about clinical negligence, you should get specialist legal advice as soon as possible. There are two recognised panels of specialist clinical negligence solicitors. One is administered by the charity *Action against Medical Accidents*. The other is administered by the Law Society. The solicitors will look at your case to decide if it is strong enough for them to take it on.

Read more: <https://www.citizensadvice.org.uk/health/nhs-and-social-care-complaints/complaining-about-the-nhs/taking-your-complaint-against-the-nhs-to-court/clinical-negligence-in-the-nhs-taking-legal-action/>

WHAT'S NEXT

Please see Fact Sheet No. 2 for preparing to make a complaint, and Fact Sheet No. 3 for details about the process and what you can expect.

The Compassionate Friends is a national charity supporting bereaved parents and their families. We publish a range of leaflets offering advice, guidance and support for bereaved parents and siblings. View the full range on our website: <https://www.tcf.org.uk/content/resources/>

Find out more about The Compassionate Friends: www.tcf.org.uk