

Making a complaint

3

What is a complaints process?

A complaints process is the way you tell someone else about your complaint and ask them to do something about it.

The way that you make a complaint may be different depending on the complaint body (the organisation or person who you complain to). Complaints bodies may have different powers and duties.

Generally, healthcare complaints processes are available at:

- Healthcare facilities;
- Health professions and nursing councils;
- Human rights institutions, like national human rights commissions or ombudsman offices; and
- In some cases, bodies like the Office of People with Disability in Botswana or the HIV and AIDS Tribunal in Kenya have special complaints processes.

What are the types of complaints processes?

We will cover 2 main types of complaints processes:

- Internal complaints – made at a healthcare facility.
- External complaints – made outside a healthcare facility.



Internal complaints

Internal complaints can be reported at the hospital, clinic or doctor's rooms where you received healthcare.

They are sometimes called 'facility level complaints' and include complaints reported to:

- Hospital or clinic management.
- Bodies that have been set up to monitor healthcare facilities.

Internal complaints can be informal or formal:

- An **informal complaint** is a complaint that can usually be dealt with as soon as it happens in an easy and unofficial way.



For example:

Fostino is visually impaired and is living with HIV. He asks his sister to help him to go to the clinic. After he has been examined at the clinic, his doctor calls Fostino's sister and starts to explain to her the results of Fostino's latest HIV viral-load test. Fostino interrupts and says to the doctor: "Please stop that. Speak to me directly. I can hear you. I have a right to confidentiality. I have not given you permission to talk to my sister about my health status. I have a right to be treated like other patients." Fostino has complained directly to his doctor in an informal way.

A complaint can also be made to the head of the department or supervisor where the incident happened, for example: to the nurse-in-charge.

- A **formal complaint** is a complaint made at the hospital or clinic, and will usually be made to the boss of the healthcare provider that the complaint is about.

Formal complaints at the healthcare facility will often be made in writing.

External complaints

External complaints are made outside of the healthcare facility at a body or council that has an interest in health or human rights.

External complaints processes include:

- Health professions and nursing councils.
- National human rights institutions.
- Specialised bodies, like an office for people with disabilities or an office for people living with HIV.

**For example:****An example of an external complaints process: The HIV and AIDS Tribunal of Kenya**

Kenya's HIV and AIDS Tribunal is the only HIV-specific body in the world that was established by law and that has the power to decide cases relating to violations of HIV-related human rights.³

The Tribunal has the legal power to "hear and determine complaints arising out of any breach of the provisions of Kenya's HIV Prevention and Control Act of 2006".⁴

After hearing a complaint, the Tribunal is allowed to make any order that it thinks is appropriate in the circumstances. It can order that:

- Damages are paid to compensate for loss, suffering or an attack on your dignity.
- Steps are taken to stop a discriminatory practice from happening again.⁵

Although the Tribunal is not allowed to impose criminal penalties, it can make recommendations to the government about how it can better protect people living with HIV.

The Chairperson of the Tribunal has previously written to the Kenyan Cabinet Secretary for Health requesting that they work quickly to develop guidelines on privacy and confidentiality of HIV status in health care settings, as they are supposed to do under the HIV Prevention and Control Act.⁶

Who can make a complaint?

There are 3 options:

1. If you are a healthcare user acting in your own interests, you can make a complaint.
2. Sometimes people who have an interest in the health or human rights of another healthcare user can make a complaint on behalf of someone else – for example: a parent, partner or family member.
3. Sometimes human rights violations happen repeatedly to many people at the same hospital or clinic. In these cases, community-based organisations or groups of people can bring a complaint on behalf of everyone who experienced the abuse and in the interests of the broader community.

**Note:**

If you are bringing a complaint on behalf of somebody else, you must get this person's consent before you can make the complain.

3 The body was established under section 25 of the HIV Prevention and Control Act of 2006, available at: http://www1.chr.up.ac.za/undp/domestic/docs/legislation_35.pdf (accessed 12 May 2016).

4 Section 26(1)(a) of the HIV Prevention and Control Act of 2006, available at: http://www1.chr.up.ac.za/undp/domestic/docs/legislation_35.pdf (accessed 12 May 2016).

5 Section 27(7)(c)(i) and (ii) of the HIV Prevention and Control Act of 2006, available at: http://www1.chr.up.ac.za/undp/domestic/docs/legislation_35.pdf (accessed 12 May 2016).

6 Patrick Eba, 2016 "The HIV and AIDS Tribunal of Kenya: an effective mechanism for the enforcement of HIV related human rights?" published by the Health and Human Rights Journal, available at: <http://www.hhrjournal.org/2016/02/the-hiv-and-aids-tribunal-of-kenya-an-effective-mechanism-for-the-enforcement-of-hiv-related-human-rights/> (accessed 12 May 2016).

Who should I complain to?

Different complaints processes have different roles and offer different remedies or outcomes. Deciding who you should complain to will depend on your needs.



Concept:

Remedies are solutions to human rights abuses, for example: compensation, an apology, being suspended from practising as a nurse.

The table below shows some general differences in complaints processes that may be available in your country and the different kinds of remedies they can give.

Internal complaints processes

Supervisors, managers and committees at healthcare facilities are responsible for the proper management and functioning of the hospital or clinic and the people who work there.

You can complain internally at a healthcare facility if you are unhappy about the services or the behavior of the healthcare workers at the facility.

Remedies:

- Internal complaints bodies usually use remedies to discipline healthcare workers who did something wrong. For example, they will transfer a healthcare worker to another healthcare facility, order that a healthcare worker respect the healthcare user's right to refuse treatment, or order a healthcare worker to apologise to a healthcare user.
- Internal complaints bodies in healthcare facilities also have the power to suggest changes to policies and procedures at the hospital or clinic.

External complaints processes

Health professions councils and nursing councils

Health professions and nursing councils monitor standards of ethical conduct and the professional competence of different health professionals.

You can use this process if your complaint is about the attitude, conduct or behaviour of a professional healthcare worker like a nurse, midwife or doctor.

Remedies:

If a healthcare professional is guilty of improper or unprofessional conduct, the council that they are a member of has the power to discipline or punish them.

Each council's powers are different, but generally they have these powers:

- To give a caution or warning to the healthcare worker, or set conditions for how they must work in future.
- In serious cases, to suspend healthcare workers from the profession or remove them from a health professionals or nurses register altogether. If this happens, the healthcare worker will not be able to practise anymore as a doctor or nurse anywhere in the country.
- In some countries, to order the healthcare worker to pay a fine to the council or another person.

National human rights institutions, such as human rights commissions, ombudspersons, and gender commissions

You can complain to a human rights body if you think your human rights have been violated. Human rights institutions protect, promote and monitor human rights, and can:

- Investigate abuses of human rights.
- Promote transparency and accountability.
- Sometimes take cases to court if they are in the public interest.

Human rights commissions usually deal with complaints about human rights violation by any person or organisation.

Ombudsmen / ombudspersons usually deal with complaints about injustice, unfairness or human rights violations by government departments, facilities and people who work for the government.

In some countries, gender commissions exist where you can make complaints about human rights violations that also deal with issues about gender equality or gender discrimination.

Remedies:

National human rights institutions usually have the power to:

- Investigate if they think that a human rights abuse is widespread.
- Inspect healthcare facilities.
- Gather evidence about human rights abuses.
- Review laws, policies and systems that affect human rights.
- Recommend to policy makers and duty bearers to make changes to laws and policies in a country.
- Recommend remedies for individual complainants.
- Bring people together to resolve the problem by mediation.

Specialised bodies

Specialised bodies are created for different purposes. They often aim to promote and protect certain groups of people, like people with disabilities or people living with HIV. You can complain to a specialised body if your complaint is to do with the issues the body deals with.

Remedies

- Each specialised body will have different powers.

Police

The role of the police is to investigate criminal cases.

If you have been assaulted or raped, or if you think that a crime has been committed, you can report this to the police.

Many police stations also have victim support units that offer counselling, first aid, advice and referral for survivors of sexual abuse, rape, and other offences where privacy and confidentiality are very important.

Remedies:

- The police will investigate the crime and, if appropriate, arrest the person who committed the crime. This person may then be charged in court and, as the complainant, you can be called to give evidence as a witness.
- The police can also offer protection to complainants or witnesses.

How do I choose which complaint process is best for me?








It might be difficult for you to decide which complaint process is right for you. The table below shows some advantages and disadvantages between the different ways of complaining:

Internal complaints processes

👍 ADVANTAGES	👎 DISADVANTAGES
<ul style="list-style-type: none"> The process is generally informal which means it can be easy to use and access. The people who receive your complaint are usually directly responsible for the way the healthcare facility is run and for the healthcare workers who they employ. They then have the power to fix the problems that caused your complaint, for example: by changing a clinic's policy or by disciplining the healthcare worker. 	<ul style="list-style-type: none"> The informal way of complaining also means it is sometimes unclear how your complaint will be handled, for example: it may not be clear who will make the decision about your complaint. Because the people who receive your complaint will often be working with the healthcare workers you are complaining about, their decisions may not always be objective or fair.

External complaints processes

Health professions councils and nursing councils	👍 ADVANTAGES	👎 DISADVANTAGES
	<ul style="list-style-type: none"> The process is usually quite formal. This means that there are legal procedures that the council must follow. The people who make the final decision must be fair and independent. You usually have to prove what the healthcare worker did by showing evidence. These facts can help to make sure the truth comes out. It is usually other nurses and doctors who decide on the complaint. This helps to make sure that other nurses and doctors also learn from what happened, and can take action to make sure nurses and doctors behave better in the future. If the council did not follow a fair procedure, it is sometimes possible to take the case to the courts to review the procedure. In some cases you can appeal the council's decision to the High Court. 	<ul style="list-style-type: none"> The formality of the process can make it difficult to access these processes if you don't have the help of a lawyer. Sometimes it is difficult to get the evidence you need to prove what happened. If you make a complaint you also need to be willing to give evidence to the council. They may also access hospital records to investigate a case. If you are worried about confidentiality or staying anonymous, this can be a risk. Because nurses and doctors will be deciding on the complaint, it is possible that they will want to protect each other and will not be fair. Making sure that the councils stick to the procedures written in their rules is an important way to ensure the decision is fair.

Human rights bodies, such as human rights commissions or ombudspersons	<p> ADVANTAGES</p> <ul style="list-style-type: none"> • Human rights bodies are supposed to be easy to access and use. • Human rights bodies should be independent and make fair decisions. • They have powers to gather evidence that you might not be able to get alone. • Human rights bodies are often good at investigating and publicising issues that affect many people, for example: problems in the healthcare system as a whole. • Human rights bodies usually have flexible processes. This means that you can ask for special protections if you are worried about your safety, for example: by making a complaint anonymously or having an organisation make a complaint on your behalf. 	<p> DISADVANTAGES</p> <ul style="list-style-type: none"> • Human rights bodies might be difficult to reach, for example: for people living in the rural areas. They are often very busy and will receive many complaints in a year. • Usually human rights bodies can't make enforceable decisions. This means they can only recommend a remedy and it is up to the government or person in charge of the healthcare facility to decide whether to follow their recommendation. <p> Note:</p> <p>Since, 2016, the Human Rights Commission of Zambia has expanded powers to give enforceable remedies for human rights violations.</p>
Specialised bodies	<p> ADVANTAGES</p> <ul style="list-style-type: none"> • Specialised bodies will be very good at understanding their specialised issues, such as HIV or disability, and helping people who are affected by the problems that they deal with. 	<p> DISADVANTAGES</p> <ul style="list-style-type: none"> • Every specialised body's powers and process will be different. You may need help in finding out more information on how to access the specialised body.
Police	<p> ADVANTAGES</p> <ul style="list-style-type: none"> • A person who has committed a crime can be punished for what they have done wrong. 	<p> DISADVANTAGES</p> <ul style="list-style-type: none"> • Sometimes people are scared to go to the police. For example, sex workers and LGBT people are often harassed or not helped by the police.

The complaints process

A complaints process has 4 steps:

1. *Before you complain* – the incident leading to the complaint and deciding on the best way to handle it.
2. *Making your complaint* – how to present your complaint and what to include in it.
3. *During the complaint* – what to expect while your complaint is investigated and decided.
4. *After the complaint* – what to do if you are unhappy with the result.

1. Before you complain

Start as soon as possible

If you have identified a case and you want to make a complaint, you should start the process as soon as possible.



Note:

The reason for starting a complaint quickly is:

- You will need evidence to support your complaint and it is easier to gather all your evidence as soon as possible after the event, for example: before any of your files or other documents are lost.
- Some complaints processes might refuse to hear cases if they happened a very long time ago.

Try to get advice and support

Complaints bodies should be able to guide you on the procedure for making and handling complaints. Ask for guidance on how to make a complaint before you begin.

For many people, the thought of making a complaint can be scary and the process might seem confusing. For this reason, you can ask family, friends and community organisations to support you through the process.

Gather evidence

Often healthcare abuses and rights violations happen in private. It can be very difficult to prove what happened. Before making a complaint, gather as much information as possible:

- If there are any witnesses who you trust to give evidence that will support your case, try to speak to them and get a statement from them about what happened. Ask their permission if you want to identify them as a witness.
- If you have suffered any injuries, take photographs or videos if possible.
- Ask to see your medical records or hospital files and, if possible, make copies of them.



Note:

Medical records

Your medical records should be a full record of:

- Your patient history.
- The doctors that treated you.
- The dates you received healthcare services.
- A list of medicines prescribed for you.
- Other information that is relevant to your treatment and care.

In many countries around the world, healthcare users have a right to access their medical records. This does not always mean that you can take the records away with you, but it usually means that you have a right to look at your records and request a copy of them.

Even in countries where the law gives you a right to access your medical records, it can be difficult to get them. This can sometimes be because healthcare facilities don't have good filing systems or because healthcare workers are afraid of getting into trouble, and may hide or change information in the records.

The African Charter on Human and Peoples' Rights is clear that everyone has the right to access information, especially when that information is about them.⁷

This right has been understood to mean that everyone should have the right to access, update and correct their personal information. Because your health records and hospital files have information that is personal, you should have the right to access them.

Some countries in Africa have laws which guarantee that everyone has the right of access to information. Other countries have policies and codes that give healthcare users the right to access medical records for reasons such as making a complaint.



For example:

- In **Botswana**, the Code of Ethical Professional Conduct says that that all doctors, dentists, pharmacists and other registered health professionals, except for nurses and midwives, must allow patients access to their medical records.⁷

- The Constitution of **Uganda** says:

"Everyone shall have the right to access information, which is in the hands of the state as long as it does not put the state or the security of the state at risk."⁸

In 2014, a couple, whose baby had gone missing at a public hospital, successfully relied on the Constitution to demand access to their medical records.⁹

- The Constitution of **Malawi** says:

"Every person shall have the right of access to all information held by the State or any of its organs at any level of Government in so far as such information is required for the exercise of his rights."¹⁰

This right can be used by people who need to access their medical records.

- In **Zambia**, the Health Professions Council of Zambia has a Patients' Rights and Responsibilities Charter that says all healthcare users have the right to access personal medical records.



Tips:

Tips on asking for your medical records:

- If you ask to see your medical records, you don't need to give a reason. It may be safer not to mention that you want to see the records because you are thinking of making a complaint.
- Ask if you can make a copy of your records to keep for yourself. There might be a small fee to pay for copies.
- Sometimes the hospital will refuse to show or give you a copy of your records. If you have asked to see your medical records and your request is refused, you should mention this is your complaint.

7 Section 1.15 of the Botswana Health Professionals Council's 2012 "Code of Ethical Professional Conduct", available at: <http://hcp.moh.gov.bw/hprs/BHPCHome.aspx> (accessed 5 June 2016).

8 Section 41, Constitution of the Republic of Uganda, 1995, available at: http://www.statehouse.go.ug/sites/default/files/attachments/Constitution_1995.pdf (accessed 19 May 2016).

9 Amy Fallon, 2014 "Ugandans Fight for the Right to Access their Own Medical Records" published by the Inter Press Service News Agency, available at: <http://www.ipsnews.net/2014/03/ugandans-fight-right-access-medical-records/> (accessed 19 May 2016).

10 Section 37 of the Constitution of the Republic of Malawi, 1994, available at: [https://www.icrc.org/ihl-nat.nsf/0/4953f2286ef1f7c2c1257129003696f4/\\$FILE/Constitution%20Malawi%20-%20EN.pdf](https://www.icrc.org/ihl-nat.nsf/0/4953f2286ef1f7c2c1257129003696f4/$FILE/Constitution%20Malawi%20-%20EN.pdf) (accessed 19 May 2016).

Choose a complaints process

It can be difficult to decide which complaints process is right for you. Key factors will be:

- The facts of your case
- Your safety and privacy
- The remedies you want

The facts of your case



Tips:

The facts of your case: key questions

1. Does the complaint involve something that is a criminal case?

If your complaint is about sexual assault, sexual abuse, physical assault, a bribe or corruption, you should go to the police.

2. Is there a specialised body that you can approach?

People with disabilities and people living with HIV might be able to approach a specialised body in some countries.

3. Is the complaint about a healthcare professional, like a doctor or nurse?

If your complaint is about the conduct, behaviour or attitude of a healthcare professional, you could report this internally *and* take the complaint to the health professions council.

4. Have your human rights been violated?

If you think your human rights have been violated, you could take your complaint to a human rights commission.

5. Are you able to travel to make a complaint outside of the healthcare facility?

If you don't want to make your complaints at the healthcare facility where you received services, you can instead go to the offices of an external complaints body. See if there is an organisation in your area that could assist you to access an external complaints body.

Safety and privacy

Safety is an important concern when choosing a complaints process.

If you are concerned about your safety or if you don't want people to know about your complaint, you should choose a complaints process that will allow you to make an anonymous or confidential complaint.



Concept:

What is the difference between confidentiality and anonymity?

- **Anonymity** means that it is not possible to identify the individual behind the complaint. This happens when no personal information is given that might link the complaint to the complainant.
- **Confidentiality** means that, although personal information about the individual behind the complaint is given, that information must be kept safe. It should not be disclosed unless it is necessary *and* it may not be shared with anybody who is not directly involved in handling the complaint.

When you want to stay anonymous as a complainant:

- No personal information should be in the complaint.

**Concept:**

Personal information is any information that identifies you or could identify you as an individual, including your name, where you live, or any information about your health condition, age, gender or sexual orientation that might be used to identify you.

- Removing personal details from a complaint may mean that the information in the complaint is not complete. But if it is your wish to remain anonymous, your decision must be respected.

Handling your complaint confidentially:

- You can ask that the complaint is handled confidentially and that all personal information is treated as private.
- If there is a chance that as a healthcare user you might be denied further medical care or might be harmed because of making the complaint, you can ask that the healthcare workers are told not to have contact with you. You can say in the complaint form that you are worried about the risk of being denied services or harmed by the healthcare worker concerned, and want your complaint to be handled confidentially.
- In handling the complaint, the complaints body should then make every effort to treat all personal information in the complaint as privately as possible. The complaints body should also try make sure that none of the personal information is leaked to anybody who is not involved in the complaints process, including the media.

Other ways of protecting yourself:

- You can ask someone you trust to make the complaint on your behalf to feel safer in making a complaint.
- You can ask a family member, friend or community organisation to make a complaint on your behalf if you are worried about making the complaint yourself.
- Some complaints processes have the power to issue interim orders.

**Concept:**

Interim orders are instructions that can be made as soon as a complaint is made, and before it is fully investigated and decided. They protect you from harm during the complaints process.

- Interim orders could include keeping your identity anonymous, offering you special protection during an investigation, or ordering that evidence, such as medical records, is not destroyed.

**For example:**

The Nursing and Midwifery Council in Botswana has the power to make interim orders to stop or control the activity of a nurse or midwife if it thinks there is a chance of risk or harm to any person.

**Tips:**

Some important questions about safety and privacy before you make a complaint:

1. Is it important that your identity is kept secret?

- If you do not want to be identified during the complaints process, you need to find a complaints process that will protect your anonymity or confidentiality.
- Make sure you inform the complaints body about your need for confidentiality and that your details are not disclosed to any other person or the media.

2. Do you want to make a complaint yourself or do you want a family member, friend or community organisation to make the complaint on your behalf?

- Does the complaints process allow for a complaint to be made on behalf of someone else?
- If yes, you must give your permission before someone else can make the complaint for you.

3. Will the complaint make the doctor, nurse or other healthcare worker angry?

- Is there a chance the people you are complaining about will attack, intimidate or harass you or any of the witnesses involved?
- If you think that anyone might try to harm, intimidate or harass you or any of the witnesses involved in the complaint, inform the complaints body about this and ask for help.



For example:

Ask that you are transferred to a different clinic, or that a different healthcare worker treats you.

4. Are there family members or friends who can support and assist you with the complaint?

- It can be helpful to tell trusted family and friends that you have made a complaint so that they can give you support through the process.

Remedies

An effective complaints body should have the power to investigate complaints, gather evidence and provide an appropriate remedy or solution to help you.

Different complaints processes offer different kinds of remedies (see pages 15 and 16 above).



Tips:

Questions to help choose a complaints process

1. Is it important that your complaint is handled as quickly and urgently as possible?

- If your complaint is time sensitive, you should take it to a complaints process that can resolve it very quickly.
- Internal complaints processes are sometimes much quicker than external processes.

2. What kind of remedy do you want? Options:

- An apology.
- A change in policy.
- Training for healthcare workers.
- To be provided with healthcare services or treatment.
- Money as compensation.
- An order that a doctor, nurse or other healthcare worker is disciplined or suspended.

3. Do you know of any other people who have had similar experiences at the healthcare facility?

- In cases where many people have the same complaint, it might be better to take the complaint to an external body, like a health professions council or a human rights body. External bodies have more power to recommend training and changes in law or policy that could prevent the situation from happening again.
- If you take the complaint to local bodies, which deal with complaints from health facilities in the area, they might be in a better position to monitor whether the remedy is implemented, and if the behaviour or services at the facility has changed.
- Where the same facility abuses the rights of a number of patients, a group of healthcare users complaining at the district Department of Health might force it to take action to address abuses at the hospital or clinic.

2. Making your complaint

How should I make a complaint?

Depending on the complaints process you are using, complaints are usually made face-to-face, in writing, over the telephone or through a combination of these ways.

Generally, complaints should be in writing although sometimes the complaints body will accept a verbal complaint and write down the details for you. If you make a complaint verbally, ask for a copy of the written record of the complaint.

Before making a complaint, it is a good idea to check whether there is a standard complaints form which you should use.

What must be in the complaint?

Whether the complaint is made verbally or in writing, this information should be in your complaint:



Checklist:

- ✓ Name and contact details of the person making the complaint or someone else who can be contacted if you wish to remain anonymous.
- ✓ The date on which you are making the complaint.
- ✓ The date of the events that you are complaining about.
- ✓ All the facts that caused you to want to make a complaint in the order that they happened.



Tips:

Give all details needed to investigate the complaint, including:

- Type of healthcare service.
 - Hospital department treating the healthcare user.
 - The nurses, doctors and other healthcare workers responsible. If you don't know the healthcare worker's name, give the date and time of the incident, so that the people investigating the complaint can see who was on duty at the time.
- ✓ Specific information about poor treatment or discriminatory attitudes, and how this has affected you. If you think that one of your human rights was violated, say this.
 - ✓ If you tried to make an informal complaint, you should mention this and say what the response has been to your complaint.
 - ✓ Copies of your medical records or hospital file, if necessary. If you asked to see a copy of your medical records or hospital file but your request was refused, say this in your complaint.
 - ✓ What kind of outcome or remedy you want, for example: an apology, compensation.
 - ✓ Whether or not you are willing to give further information or *oral* (verbal) evidence about the case.
 - ✓ If your complaint is urgent and you want it to be handled quickly, you should give reasons for why it should be handled urgently.
 - ✓ Statements from any witnesses, or give details of who the witnesses are and how they can be contacted.
 - ✓ If your case is serious and you think you might want to take the case to court at a later stage, you should include this statement in your complaint:
 - "The information in this complaint is given without prejudice to my rights to take any further action, including legal action, at a later stage."
 - ✓ If your complaint is in writing, you should sign it. If you are not able to sign it, a thumbprint is often also accepted.

**Note:**

It is useful to keep track of the dates and details of all the communication and contact you have had with the person or facility that you are complaining against. This includes all verbal and written communications before, during and after you make a complaint.

You should keep copies of all your written communications with the person or facility you are complaining against, even if you do not include these in your complaint. If you do want to include these communications in your complaint, include a copy and keep the original somewhere safe.

3. During the complaint

What to expect after you have made a complaint

After a complaint has been made to a complaints body, you should be given an **acknowledgement** (a formal note or receipt) that the complaint has been received. You should ask to receive this acknowledgement in writing.

After making a complaint, you usually have the right to receive updates on the progress of the complaint. The complaints body should give you information about where your complaint is in the complaints process, for example: is it being investigated?

**Tips:**

Tips for following up on your complaint:

- Ask for the name and contact details of the person who will handle the complaint.
- Ask for a reference number of the complaint.

The investigation and enquiry

After you have made a complaint and it has been recorded by the complaints body, it will begin an investigation of all the facts:

- If you left any important details out of your complaint, the person or body investigating the complaint might contact you if they need more information.
- If any of your contact details change, make sure you inform the complaints body.
- You or any witnesses might be asked to give evidence about the complaint.
- If you submitted your complaint to a health professions council, you might be asked to explain your side of the story at a disciplinary hearing.
- What you say at a disciplinary hearing will help the complaints body decide whether or not they need to suspend or discipline a healthcare professional or, in extreme cases, prevent them from practising. The disciplinary hearing is usually closed to the public.
- During the investigation and enquiry stage, you can ask for information on how far the complaint process has gone.

The decision

After the complaint has been investigated, the complaints body will make a decision about the complaint. They will decide on whether or not a healthcare worker or healthcare facility did something wrong and what should be done about this.

Depending on the complaints body that you took your complaint to, different orders can be made at this stage on what remedies to give.

4. After the complaint

Here are a few options if you are unhappy with the outcome of your complaint or the way it was handled:

Referring the complaint to a different complaints body

It may be possible to take your complaint to a different complaint body. For example, if you took a complaint about a healthcare professional to a health professions council and you are unhappy about how it was handled, you could take your complaint to a human rights commission.

Escalating your complaint

If you made a complaint internally, for example, with the nurse-in-charge, and are unhappy with the outcome, you could *escalate* your complaint – in other words, take it to a higher level. For example, take your complaint to the district health officer or complain directly to the Ministry of Health.

Taking your complaint to court

If you are unhappy about the way your complaint was handled, or you feel that the procedure was unfair or the decision was wrong, you may have the right to go to court:

- Taking a case to court can be expensive and time-consuming.
- You may need the help of a lawyer.
- You will have to move quickly to take the case to court, as there are usually time limits for how long you can take to go to court after a decision by the complaints body.
- If your case did not succeed at the complaints body because there was not enough evidence, it may be risky to go to court. If you lose in court, you may have to pay the legal costs of the other side.

Referring the complaint to the United Nations Special Rapporteur on the Right to Health

Individual people and community organisations can send complaints to the United Nations (UN) Special Rapporteur on the Right to Health. The Special Rapporteur is a person appointed by the UN to investigate, monitor and recommend solutions to problems around the world about the right to health.

If the Special Rapporteur thinks that there has been a serious violation of the right to health, they will send a letter to your government asking that they prevent or correct any wrongdoing. The information in your complaint may be made public. Although it is possible to request that specific information is kept confidential, a summary of the complaint is usually published in the annual reports of the Special Rapporteur.¹¹



Note:

You may need a lawyer or human rights NGO to help you make a complaint to the UN.

¹¹ See pages 8 and 23 of a publication by International Federation of Health and Human Rights Organisations, 2009 "The United Nations Special Rapporteur on the Right to Health: A Guide for Civil Society", available at: http://www.ifhro.org/images/stories/ifhro/manuals_and_guidelines/4_3_2_un_rap_guide_2009.pdf (accessed 31 May 2016).