

Complaints processes in Botswana, Malawi and Zambia, and with the Global Fund

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In this section you will find information about specific complaints procedures in Botswana, Malawi and Zambia. You will also find information about how to make a complaint to the Global Fund. See the Annexures at the end of this Guide for complaints forms and useful contacts and links.

Botswana

If you live in Botswana and you want to make a complaint, these are your options:

- An internal complaint to the hospital or clinic.
- An external complaint to the Botswana Health Professions Council, the Nursing and Midwifery Council of Botswana, the police or the Botswana Office of People with Disability.

Internal complaints

Who should I complain to?

You can make a complaint at the healthcare facility where you received services. The Ministry of Health says you can complain to the following people:

- The supervisor in charge
- The public relations officer
- The matron
- The hospital manager or chief administrative officer
- The hospital superintendent or chief medical officer.

If you are unhappy with the outcome of your complaint, the Ministry of Health says you can escalate your complaint through the following bodies in the Ministry of Health:

- The Ministry of Health headquarters
- The Director of the relevant Department
- The Permanent Secretary
- The Minister or Assistant Minister of Health
- The Office of the President.

How should I complain?

Your complaint should be in writing, although verbal complaints may also be accepted. It may be possible for a complaint to be made on behalf of someone else.

Safety and privacy

Healthcare facilities may not be able to guarantee confidentiality or allow for complaints to be made anonymously. You should check this with the healthcare facility.

Remedies

- If your rights have been violated, healthcare workers who did something wrong can be disciplined or punished. The healthcare facility will not be able to make big policy changes but might be able to change the way things are run in that particular facility.
- A hospital manager may decide to refer a complaint that was made internally at the facility to an external complaints body. Then the complaint will be referred to the District Health Team and someone at the District Health Team will handle the case on behalf of the healthcare user.

Botswana Health Professions Council (BHPC)

How should I complain?

Complaints can be made against any professional healthcare worker who is registered with the BHPC. Complaints must be in writing and must set out what happened and why you think that a healthcare worker acted in a way that was unprofessional.

Safety and privacy

It is not clear if the BHPC will accept a complaint made on behalf of others, anonymously or confidentially. But the BHPC does have the power to make an order that the identity of a witness or other person is kept secret if it is in the interests of the BHPC performing its duties.

Remedies

If a healthcare professional has acted unprofessionally, the BHPC has the power to caution, reprimand, suspend or prevent the healthcare professional from practising.

Nursing and Midwifery Council of Botswana (NMCB)

All registered nurses and midwives in Botswana have a duty:

- To respect the dignity and privacy of their patients.
- To be sensitive to the needs and decisions of their patients.
- To ensure they get consent for treatment.
- To minimise the possibility of risk to patients and healthcare users.
- To maintain professional competence.

How should I complain?

- Anyone has the right to make a complaint to the Nursing and Midwifery Council of Botswana, including fellow nurses and midwives, patients, families, the police or other people.
- Complaints should be in writing and should give information about the nurse or midwife involved, the dates of the incident or patterns of behaviour, and an outline of what the complaint is about.

- Complaints can be sent by email, post or fax, or they can be delivered by hand.

Safety and privacy

- Complaints can be made on behalf of someone else.
- As soon as a complaint is made, and even before it is investigated, the Nursing and Midwifery Council can make any interim order it thinks is necessary to protect any person at risk of harm.
- If you are concerned about your safety as a complainant, you should request in your complaint that interim orders are considered to guarantee your safety and protection.

Remedies

If the Council decides a nurse or midwife has committed an offence, or ignored their professional duties and standards, the Council can:

- Reprimand the nurse or midwife;
- Order the nurse or midwife to pay a fine; and
- In serious cases, stop the nurse or midwife from practising.

Botswana Office of People with Disability (BOPD)

The BOPD falls under the Office of the State President. Its role is to coordinate implementing disability policy in Botswana by developing strategies and programmes to empower people with disabilities. There are currently no procedures written in law or policy for how the complaints process at the BOPD works. The process is therefore flexible.

How should I complain?

Any person who has a complaint relating to disability can make a complaint in writing in either Setswana or English. Complainants can make their complaints personally at the Office in Gaborone.

In rural areas, complaints can be made at the district Disability Committee. Social workers can assist in making the complaint in writing and directing it to the relevant department.

Safety and privacy

You can request to have your complaint handled confidentially, you can make a complaint anonymously, or other people can make a complaint on your behalf.

Remedies

The BOPD's aim is to:

- Address discriminatory practices in the public service.
- Prevent discriminatory behavior.
- Collect information about human rights issues affecting people with disabilities.

The BOPD does not have any particular powers to order remedies or to enforce change.

However, because the BOPD is a part of the Office of the President, it can access policy-makers and key people in government. This places the BOPD in a good position to make recommendations, to mediate and to push for policy changes on your behalf.



Botswana case study

Tina is a sex worker in Botswana. She was diagnosed with TB and has been receiving treatment at Gaborone Hospital for the past 2 months.

Although she is getting better, Tina was told that she needs to continue with her treatment for at least 6 months. Each month, she goes to Gaborone Hospital for a check-up and to receive a one-month supply of her medicine.

When she last visited the hospital, the nurse she saw refused to give her the medicine. The nurse told her she is sick because God is angry with her and said that she will not stick to the treatment anyway because she is “unreliable”.

What rights are violated?

- Tina has been unfairly discriminated against.
- Healthcare users who are sex workers have the same rights as anyone else to access and use safe and non-discriminatory healthcare services.

What can Tina do?

Tina has a number of options available to her:

- She can make a complaint internally at Gaborone Hospital where she is treated.
- She can also make a complaint with the Nursing and Midwifery Council of Botswana, because the nurse has not followed the code of professional and ethical conduct that she is supposed to respect. The nurse has not treated Tina with dignity, and has not given Tina the medical attention and treatment that she has a right to receive.
- If Tina is worried about her safety and privacy, she could ask the Nursing and Midwifery Council of Botswana to make an interim order to guarantee her safety and privacy while the complaint is being investigated. She can also ask that her name should not be disclosed in the records.

Tina does not have to admit in the complaint that she is a sex worker if she does not want to. The nurse is not allowed to unfairly discriminate against patients and must treat them all equally.

Malawi

If you live in Malawi and you want to make a complaint, these are your options:

- An internal complaint to the hospital or clinic.
- An external complaint to the Medical Council of Malawi, the Nurses and Midwives Council of Malawi, the police, the Malawi Human Rights Commission or the Office of the Ombudsman.

Internal complaints

Who should I complain to?

- You can make an internal complaint through senior staff and management at a healthcare facility, a hospital ombudsperson or through a Health Centre Advisory Committee (HCAC).
- Approach the HCAC for assistance and advice about your complaint. If they are not able to help you, the head of the healthcare facility, a hospital ombudsperson or a district health officer might be able to receive your complaint.

How should I complain?

It is always better to make your complaint in writing so that you have a detailed record of what happened.

Safety and privacy

It may be possible for the HCAC, a traditional leader or a community organisation to make the complaint on behalf of a healthcare user who would prefer to be private. However, you should check this with the hospital or clinic first.

Remedies

Internal complaints bodies in Malawi do not have wide powers to order remedies like compensation or big policy changes. However, an internal complaints body might be able to transfer a healthcare worker to another facility, to ask the healthcare worker to apologise, or they could pass on suggestions for policy changes to the local authorities.

Medical Council of Malawi (MCM)

If the complaint is about the behaviour, attitude or conduct of a particular health professional, such as a doctor or nurse, it can be made with the Medical Council of Malawi or the Nurses and Midwives Council of Malawi.

How should I complain?

You can make a complaint to the Medical Council of Malawi over the phone, in writing or by going to see the Registrar at the offices of the MCM.

Safety and privacy

Anonymous and third-party complaints may be accepted by the MCM. The MCM can then decide if it wishes to refer the complaint for further investigation by the Disciplinary Committee or to call for more information.

**Note:**

An accused medical practitioner has the right to be heard in disciplinary proceedings. This may include the possibility of cross-examining a complainant. The MCM can also summon a witness to give evidence in disciplinary proceedings. Healthcare users should be aware that they may have to give evidence if they make a complaint.

Remedies

The MCM can make an order to discipline a healthcare professional. This includes orders:

- to suspend the practitioner for a period of time
- to impose conditions on their practice.
- to pay a penalty; and
- in serious cases, to deregister the healthcare professional and prevent them from working in healthcare.

**Note:**

Any person who is unhappy with a decision of the MCM can appeal the decision by going to a High Court within 3 months.

Nurses and Midwives Council of Malawi (NMCM)

How should I complain?

The NMCM is allowed to consider any complaint about a registered nurse or midwife in Malawi. You should make your complaint in writing, so that you have all the facts on record.

Safety and privacy

The NMCM will receive third-party and anonymous complaints. The NMCM does not, however, encourage anonymous complaints to ensure thorough investigations are possible.

Remedies

If the NMCM can discipline nurses and midwives in a number of ways. This can include an order:

- to pay a penalty to the NMCM;
- suspending the nurse or midwife from working for a period of time;
- that the nurse or midwife can only work under certain conditions; and
- in serious cases, deregistering the nurse or midwife so that they can no longer work.

The police

Police stations in Malawi have Victim Support Units. Their functions include offering counselling, referrals, advice and first aid in cases of sexual abuse, rape, defilement, and domestic violence.

If your complaint is about a sexual offence or an offence which needs privacy and confidentiality, you should talk to the police to arrange this.

Malawi Human Rights Commission (MHRC)

The MHRC can investigate complaints about violations of the Constitution of Malawi or any other law. However, if the case is before a court, the MHRC cannot hear it.

How should I complain?

- Complaints should be made in writing, either by letter or by filling out a standard complaints form, which is available on the MHRC's website.
- Complaints can also be made in person by visiting the offices of the MHRC in Blantyre or Lilongwe. Your complaint should include the names and contact details of the **complainant** (healthcare user) and the **respondent** (healthcare worker).

Safety and privacy

A friend, family member or an NGO can make a complaint on behalf of someone else. The MHRC says that it treats all matters in a confidential way. If safety and privacy are important, ask how the complaint will be handled and whether any extra privacy or confidentiality steps can be arranged.

Remedies

After hearing a complaint, the MHRC can:

- Take a decision, make a recommendation or take any other action it believes is necessary.
- Order a settlement.
- Refer the complaint to another complaints process.
- Order mediation.
- Propose changes to law or policy.
- Refer the case to the police.
- Take the case to court on behalf of the complainant.



Tips:

See the MHRC complaints referral form in the Annexures. Fill out as much of the information in the form as you can and that is safe for you to include. If you do not know some of the information, however, you can leave it out.

Office of the Ombudsman

You can make a complaint with the Office of the Ombudsman about an abuse of rights or unfair discrimination while accessing or using healthcare services at a public healthcare facility.

The Office of the Ombudsman handles "any and all cases of injustice" including widespread abuses, but they only have the power to investigate public offices like government hospitals and departments.



Note:

The Office of the Ombudsman cannot help you with a complaint about healthcare services at a private healthcare facility that is not run by the government.

How should I complain?

- You can make a complaint in writing or verbally at any of the regional offices of the Ombudsman in Blantyre, Lilongwe, Balaka or Mzuzu, or directly to the national office.
- Before complaining to the Office of the Ombudsman, you may be asked to try to resolve the complaint through internal complaints processes. You are supposed to say on your complaint form what you have done to try to resolve the issue before coming to the Ombudsman, like speaking to a hospital supervisor.
- If making an internal complaint is not available to you, or is not safe, you should mention this on your complaints form.

Safety and privacy

While the Office of the Ombudsman says it will keep the name of the complainant confidential, summaries of the cases heard by the Office are published each year in an annual report and also on the Internet, often with the name of the complainant.

If safety and privacy are important to you, making a complaint with the Ombudsman might not be your best option.

Remedies

- After investigating your complaint, the Office of the Ombudsman will make a determination. This may include recommendations to the healthcare facility or healthcare worker.
- But the Office of the Ombudsman does not have the power to force healthcare facilities or workers to obey its recommendations.

**Tips:**

See the Office of the Ombudsman complaints form in the Annexures. Fill out as much of the information in the form as you can and that is safe for you to include. If you do not know some of the information, however, you can leave it out. This form is also available in Chichewa from the Office of the Ombudsman.



Malawi case study

Felix lives in a rural community and is living with HIV. There is only one health centre in the community. Felix developed anal warts after having sex without a condom with a male partner. When he goes to the health centre to collect his anti-retroviral treatment (ART), he asks to see the nurse so he can get treatment for his anal warts. Felix does not say anything about how he got the warts but asks for help from the nurse.

When the nurse examines him, she starts to laugh at him and call him rude names. She sends him away without treatment for his anal warts but gives him his ART. Later in the week, when he greets his neighbour, his neighbour says to him: "I don't want to talk to you. The nurse told me you are gay."

Felix is angry about how he was treated and that he hasn't received medication for his condition. But he is afraid that if he complains, the nurse might refuse to give him his ART. He is also afraid that the rest of the community will find out that he has sex with men, and will stigmatise him or hurt him.

What rights are violated?

Felix's health and human rights have been violated:

- His right to access treatment has been violated by the nurse's refusal to treat his anal warts.
- The nurse has discriminated against him and not respected his right to dignity.
- The nurse has violated his right to privacy and confidentiality by disclosing his health condition to other people.

What can Felix do?

Felix can complain to the district health officer, the Nurses and Midwives Council of Malawi (NMCM), the Malawi Human Rights Commission or the Office of the Ombudsman.

Because Felix has a number of concerns about his safety and access to healthcare, he decides it is a good idea to contact an organisation that works with LGBT rights to ask for help:

- Felix first asks the organisation to refer him to a healthcare worker who is safe to use and who has been trained on working with LGBT healthcare users. He goes to this healthcare worker to access treatment for his anal warts.
- The LGBT organisation tells him that they have been documenting similar cases of people being denied healthcare services when healthcare workers presume they are gay.
- They decide together that the LGBT organisation will include Felix's story anonymously in a big complaint to the Malawi Human Rights Commission, together with the stories of other healthcare users that were treated in a similar way.
- In the complaint, the LGBT organisation asks the MHRC to investigate the problem of treatment refusal and breaches of confidentiality for LGBT healthcare users, and also to negotiate with the NMCM to train its members on non-discrimination and the importance of confidentiality.

Zambia

If you live in Zambia and you want to make a complaint, these are some options:

- An internal complaint at the healthcare facility.
- An external complaint to the Health Professionals Council of Zambia, the General Nursing Council of Zambia, the police or the Human Rights Commission of Zambia.

Internal complaints

Who should I complain to?

- Complaints can be made to the person in charge of the health facility or the Neighbourhood Health Committees or Health Centre Committees, where these are available.
- Some health facilities have formalised complaints processes. For example, at the University Teaching Hospital in Lusaka, verbal or written complaints can be made in a number of ways, including by phone, email or suggestion boxes, or to the sister-in-charge, the public relations office, or the managing director, amongst others.

How should I complain?

It is always best to note the complaint in writing so that you have a good record of what happened.

Safety and privacy

It may be possible for a family member, a friend or a community organisation to make a complaint on behalf of a healthcare user who would prefer to be private. There are, however, no guarantees in place that the complaint will be processed if anonymous or made by a third-party.

Remedies

Internal complaints bodies in Zambia do not have wide powers to order remedies but they may be able to offer you an apology, to discipline the healthcare worker, or to explain what went wrong. In cases where hospital management is not able to resolve the complaint, they might refer it to an external body for more investigation.

Health Professionals Council of Zambia (HPCZ)

If the complaint relates to the behaviour, attitude or conduct of a particular health professional, such as a doctor, it can be made with the Health Professionals Council of Zambia.

How should I complain?

- You can make a complaint to the HPCZ if you feel that a healthcare professional in Zambia has acted unlawfully, or has done something which goes against the HPCZ's Code of Ethics or the Health Professions Act.
- Your complaint must be in writing and can be sent by post to the Registrar of the HPCZ. You should include the name of the healthcare professional, the name of the healthcare facility and details to support your complaint.
- You should make your complaint as soon as possible after the incident.

Safety and privacy

Complaints to the HPCZ can be made on behalf of someone else. The HPCZ does not however ordinarily accept anonymous complaints – only in special circumstances will an anonymous complaint be accepted.

The HPCZ will make an effort to keep the details of your complaint confidential. If the HPCZ holds a hearing on the complaint, it will be closed to the public.

Remedies

If a healthcare professional is found guilty, the HPCZ has the power:

- To cancel the healthcare worker's licence to practise.
- To impose conditions on how the healthcare professional must practise.
- To caution the healthcare professional.
- To order the healthcare professional to pay a fine to the HPCZ.
- To order the healthcare professional to pay compensation to the person who was affected by the healthcare professional's misconduct.

General Nursing Council of Zambia (GNCZ)

How should I complain?

- Any person who is unhappy about incompetence, negligence or abuse by a registered nurse or midwife in Zambia can make a complaint in writing to the GNCZ or in person as a "walk-in-client".
- Complaints can be in writing or verbally. Your complaint should include information about the incident, with details of the healthcare facility and the nurses and midwives involved.

Safety and privacy

The GNCZ does accept anonymous and third-party complaints.

Remedies

After investigating a complaint, the GNCZ can issue a warning to a nurse or midwife, suspend them or stop them from practising.

Human Rights Commission of Zambia (HRCZ)

The aim of the HRCZ is to uphold and protect the human rights set out in the Bill of Rights in the Constitution of Zambia.

How should I complain?

- Complaints can be made in person at any of the provincial offices of the HRCZ in Livingstone, Ndola, Chipata, Kasama or Mongu, or at the national office in Lusaka.
- Complaints can also be made over the phone or by email.

Safety and privacy

The HRCZ can receive complaints of human rights abuses from:

- Someone acting on behalf of a person who has experienced an abuse of their rights.
- Individuals, organisations or associations acting in the interests of an individual, a group of people or its members.

Remedies

If you make a complaint to the HRCZ, it has the power:

- To investigate and report on how rights are being abused.
- To take steps to make sure that the abuse of rights and freedoms is stopped.
- To make sure that duty bearers and other stakeholders obey its decisions and orders.
- To make interim orders around safety and protection if it thinks they are necessary for the investigation.



Zambia case study

A nurse takes a sample of blood from Mukasi and tests her blood for HIV. The nurse did not tell Mukasi that she would be testing for HIV. The nurse also did not give Mukasi information about HIV and HIV testing, and did not ask her for informed consent before testing.

Mukasi has heard that many other people have had the same problem with other nurses at the clinic. She wants nurses to change their behaviour and to respect healthcare users more.

What rights are violated?

- The nurse has violated Mukasi's right to participate in decisions affecting her health. Mukasi has the right to make her own decisions about her body and her health, and she could have refused the HIV test if she did not want it.
- The nurse did not give Mukasi full information about HIV and HIV testing, and did not ask her for permission to test for HIV. The nurse has therefore violated Mukasi's right to give informed consent to an HIV test.

What can Mukasi do?

Mukasi has these options:

- To make an internal complaint at the healthcare facility where she was treated.
- To make a complaint against the nurse with the General Nursing Council of Zambia.
- To complain that her human rights have been violated with the Human Rights Commission of Zambia.

Mukasi decides to make a complaint with the person in charge of the clinic: the clinic manager. She asks the Neighbourhood Health Committee to assist. Mukasi asks the Neighbourhood Health Committee to set up a meeting with the clinic manager. At the meeting, Mukasi explains what happened to her. She says that she wants the clinic manager to call a meeting with the nurses and the Neighbourhood Health Committee to discuss informed consent and why it is important. She also wants the nurse to apologise to her.

This is a good option for Mukasi's problem because she wants all the nurses in the clinic to respect patients and to make sure informed consent is taken for all HIV tests in future.

The Global Fund to Fight AIDS, Tuberculosis and Malaria

The Global Fund to Fight AIDS, Tuberculosis and Malaria (Global Fund) is an international financing institution that provides funding to governments around the world to fight HIV, tuberculosis and malaria. Many countries in Africa accept funds from the Global Fund for the HIV programming and services.

The Global Fund is committed to protecting and promoting human rights. It understands that focusing on key populations and vulnerable people and ending discrimination is important to defeating HIV, tuberculosis and malaria.

To make sure that it does not support programmes that violate human rights and to play its part in removing human rights barriers to health services, the Global Fund has created a complaints process.

How should I complain?

Any person or organisation who believes that they have experienced or witnessed a violation of any of the Global Fund's 5 minimum human rights standards, in any Global-Fund-supported programme, can make a complaint with the Global Fund's Inspector General. Complaints can be made over the telephone, by email or over the internet.

What are the minimum human rights standards for programmes supported by the Global Fund?

1. Programmes financed by the Global Fund are expected to grant non-discriminatory access to services to all people, including people in detention, LGBT persons, people who use drugs, and sex workers.
2. Programmes financed by the Global Fund are expected to employ only scientifically sound and approved medicines or medical practices.
3. Programmes financed by the Global Fund are expected not to use methods that constitute torture or cruel, inhuman or degrading treatment.
4. Programmes financed by the Global Fund are expected to respect and protect informed consent, confidentiality and the right to privacy for any medical treatment, testing or services.
5. Programmes financed by the Global Fund are expected to avoid medical detention and involuntary isolation of healthcare users. This may only be done as a last resort.

After receiving a complaint, the Inspector General will assess and investigate the issue.

Safety and privacy

- Anonymous complaints are allowed.
- Organisations can file complaints on behalf of any individual or group but the organisation must have a letter of authorisation that they have permission from the individual or group to file the complaint.
- The identity of complainants will remain strictly confidential unless the complainant consents to their information being disclosed.

Accountability

The Global Fund process does not provide any remedies for complainants but can help to hold government and other programmes funded by the Global Fund accountable. This is because the Fund requires all organisations and governments who receive funding from it to sign a grant agreement that includes a commitment to its 5 minimum human rights standards.



Tips:

See the contact details for the Global Fund's complaints process in the Annexures.