



## Rights and Complaints

### Key facts

If a person with intellectual disability does not get a fair deal from the health system, it is okay to make a complaint. And if the person suffers from inadequate health care, they might be able to seek compensation.

There are independent complaints bodies you can go to. But, usually it is best first to try to sort the problem out with the service.

### A right to good health care

Under the UN Convention on the Rights of Persons with Disabilities, people with disabilities have a right to good health care. You cannot take health professionals to court for breaching this right but you can expect the service to take a complaint seriously.

The NSW Patient Safety and Clinical Quality Program spells out what any person, including people with intellectual disability, can reasonably expect from health professionals, eg good quality care, to be treated with respect and clear complaints procedures.

The Health care policy and procedures of ADHC NSW (now part of the Department of Family and Community Services) spell out what disability accommodation services should do to help their residents stay healthy.

### General tips for making a complaint

- It is usually best to raise a concern as soon as the problem arises. It may be useful to ask a health professional to explain why they acted as they did, before deciding whether to make a complaint.
- It may be quickest to sort out the concern face-to-face or by a phone call. And, if that does not work, write a letter or email.
- Stick to the facts and try to be calm and clear.
- Be ready to listen to the service provider's point of view.
- Tell the person what you need from them. Is it an explanation, or an apology? Do you want them to do something?
- Politely tell them what you will do if the concern is not resolved.
- Keep records of what happens - the health problem and what you do about it.
- Be persistent, and try again if they do not respond the first time.

The main ways to make a complaint are –

- **Talk to the service provider directly.** Sometimes, this is enough to solve the problem informally.
- **Contact the provider's supervisor.** This may be a more senior doctor, manager or head of the organisation.
- **Contact a formal complaint organisation.** Often, these organisations can look at the health service's records and say whether they did the wrong thing.



## Complaint handling organisations

### **NSW Health**

The NSW Department of Health handles complaints about services that it runs, including community health centres and public hospitals. You can complain to the service or to the head office of the Department.

### **ADHC**

You can complain to the Ageing, Disability and Home Care about the services it provides or funds.

### **Health Care Complaints Commission**

An independent body that handles complaints about health services and individual professionals. The Commission can help you prepare your complaint. If you want a language interpreter, you can contact the Commission through the Telephone Interpreter Service (TIS) on 131 450.

### **Ombudsman NSW**

Handles complaints about ADHC and funded disability services, and about administrative failings in other government health services, eg if a health service does not respond to your complaint. The Ombudsman also reviews the deaths of people with disabilities in residential care.

### **Discrimination complaints**

Under anti-discrimination law, it is unlawful for health services to discriminate on the basis of disability, eg refusing to offer heart surgery because a person has Down syndrome. Also, health services must make reasonable adjustments to their services to meet the needs of a person with a disability. If you think these rights are breached, contact the Disability Discrimination Legal Centre or the Intellectual Disability Rights Service for advice. They might suggest you complain to the Anti-Discrimination Board NSW or the Australian Human Rights Commission. These bodies can investigate and conciliate complaints. In some cases, complaints lead to compensation or orders for services to comply with the person's rights.

### **Suing for damages**

If a person is badly injured or suffers great pain or distress because of the negligence of a health professional, you can consider suing for damages in court. You would need to talk to a solicitor who has experience in negligence law.

## Where to get help

Anti-Discrimination Board NSW

(02) 9268 5555

[www.lawlink.nsw.gov.au/ADB](http://www.lawlink.nsw.gov.au/ADB)

Australian Human Rights Commission

(02) 9284 9600

Complaints: 1300 656 419

[complaints@humanrights.gov.au](mailto:complaints@humanrights.gov.au)

[www.humanrights.gov.au](http://www.humanrights.gov.au)

ADHC (in the Department of Family and  
Community Services)

(02) 8270 2000

[www.adhc.nsw.gov.au/contact\\_us/make\\_a  
comment\\_enquiry\\_complaint\\_or\\_compliment](http://www.adhc.nsw.gov.au/contact_us/make_a_comment_enquiry_complaint_or_compliment)

Disability Discrimination Legal Centre

1800 800 708 (NSW only)

[www.ddlcnsw.org.au](http://www.ddlcnsw.org.au)



Health Care Complaints Commission  
(02) 9219 7444 Free call:1800 043 159  
[hccc@hccc.nsw.gov.au](mailto:hccc@hccc.nsw.gov.au)  
[www.hccc.nsw.gov.au](http://www.hccc.nsw.gov.au)

NSW Health  
(02) 9391 9000  
[nswhealth@doh.health.nsw.gov.au](mailto:nswhealth@doh.health.nsw.gov.au)  
[www.health.nsw.gov.au](http://www.health.nsw.gov.au)

Intellectual Disability Rights Service  
(02) 9318 0144  
Free call 1800 666 611  
[info@idrs.org.au](mailto:info@idrs.org.au)  
[www.idrs.org.au](http://www.idrs.org.au)

Ombudsman NSW  
(02) 9286 1000  
Toll free:1800 451 524  
[nswombo@ombo.nsw.gov.au](mailto:nswombo@ombo.nsw.gov.au)  
[www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)

### For more information

*Health care policy and procedures, ADHC NSW*

[www.adhc.nsw.gov.au/\\_data/assets/file/0007/228094/Health\\_Care\\_Policy\\_Sept\\_2010.pdf](http://www.adhc.nsw.gov.au/_data/assets/file/0007/228094/Health_Care_Policy_Sept_2010.pdf)

Patient Safety and Clinical Quality Program NSW

[www.health.nsw.gov.au/policies/pd/2005/PD2005\\_608.html](http://www.health.nsw.gov.au/policies/pd/2005/PD2005_608.html)

Tips for making complaints

[www.ombo.nsw.gov.au/complaints/tipsmakingcomplain.html](http://www.ombo.nsw.gov.au/complaints/tipsmakingcomplain.html)

UN Convention on the Rights of Persons with Disabilities

[www.humanrights.gov.au/disability\\_rights/convention.htm](http://www.humanrights.gov.au/disability_rights/convention.htm)

### You might be interested in this fact sheet

- **Consent to medical treatment**

*This fact sheet was updated in **November 2011**.*

*The fact sheet contains general information only and does not take into account individual circumstances. It should not be relied on for medical advice. We encourage you to look at the information in this fact sheet carefully with your health professional to decide whether the information is right for you.*