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A bite-size guide to:

Mediation between patients, carers and the NHS

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NHS England is committed to ensuring that public and patient voices are at the centre of shaping our healthcare services. We should involve patients and carers in decisions relating to their care and treatment and support them to be heard and have their views taken into account. This may include mediation to help resolve areas of concern or conflict.

This bite-size guide is aimed at patients, carers, health providers and commissioners to explain how mediation can work and some core principles for effective mediation.

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Why is this important?

While most people have good experiences of care, when things go wrong patients and families understandably want to share this with the staff and organisation/s involved. They need their comments to be listened to, recognised and addressed. They want to understand what has happened and to know what actions, if any, will be taken.

Many concerns can be successfully dealt with informally. However, there are situations where mediation can be a useful route to reach a successful resolution for both parties.

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What is Mediation?

Mediation can be informal, where issues are resolved directly with the organisations involved through the Patient Advice and Liaison Service (PALS) or Complaints Team, or sometimes with the help of an independent person or an advocate, working with and on behalf of the complainant.

Formal mediation is also a recognised component of the NHS complaints system and an effective tool to resolve complaints and concerns about healthcare. Not all NHS organisations offer formal mediation but it can be a highly effective route to resolve issues. NHS organisations should consider offering mediation alongside other options to resolve complaints.

Mediation produces more meaningful and cost-effective outcomes, improves the experience for both the complainant and the NHS staff and reduces the likelihood of costly and lengthy legal processes.

It is a flexible and confidential process where an independent and impartial mediator helps those involved to resolve difficulties between a patient/carers and NHS staff.

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Mediation provides a safe and confidential environment where two sides involved in a dispute are helped by a neutral third party – the mediator - to hear each other’s version of events and work together to resolve the dispute.



This is a voluntary process, with the mediator or either party having the right to end the process at any time.



Mediation should take a person centred approach, ensuring that the process is fully accessible and supportive of the diverse needs of the patient/ carers involved.

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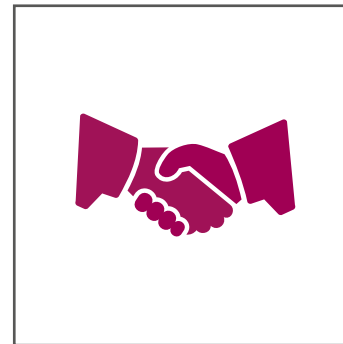
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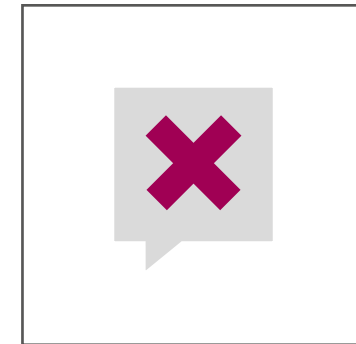
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Mediation creates a forum where the patient or carer feels his or her concerns are being listened to (in a language they understand and with people who will understand cultural sensitivities) and will be acted upon.



Mediation uses an impartial and non-judgemental mediator to let each side explore the facts, perceptions and emotions to help reach an amicable solution.



Health mediators have no legal power. They do not offer advice, make their own judgements or impose solutions.

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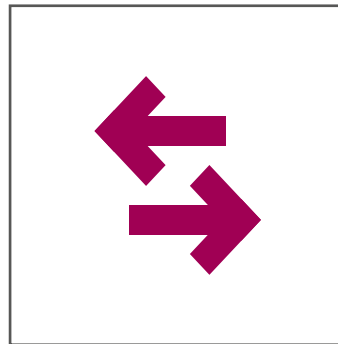
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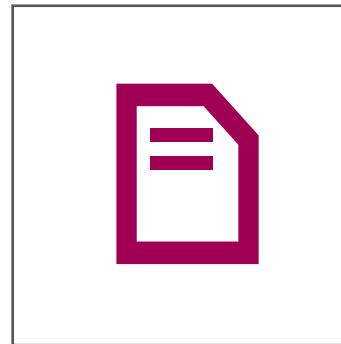
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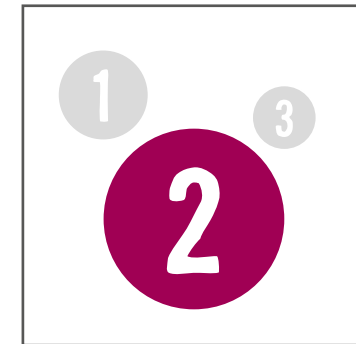
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The success of mediation depends on the commitment of both sides to work together to resolve the dispute.



Details of the discussions are confidential although any lessons learned should be shared.



Informal and formal mediation may take place at different stages of a process to reach a resolution to a complaint

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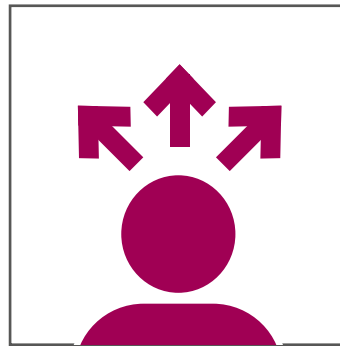
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Mediation provides an opportunity for all parties to learn from the experience which can lead to changes in the way things are done in the future.

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Informal mediation

1. The patient or carer may raise his or her concern informally, directly with the relevant manager or practitioner or, in the case of hospital care and CCGs, with the Patient Advice and Liaison Service (PALS), Patient Experience or Complaints Team.
2. Staff should have the knowledge and confidence to signpost people to the PALS or relevant customer support team. There should be leaflets and posters publicising the service to explain that PALS offers confidential advice and support which can help resolve concerns. PALS provides information, including how to follow the NHS complaints procedure, and advice on how to get independent help and support – for example, NHS Complaints Advocacy.
3. The matter may be resolved immediately, through discussion with the relevant service and/or assistance of PALS or independent help.

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Formal mediation

1. Not all complaints are resolved informally and a formal complaint process may be started.
2. The organisation may offer access to formal mediation or the person making the complaint may ask for complaints mediation. In either case, it is good practice for the organisation to explore options and where possible provide funding.
3. The independent mediation service will need to show evidence that they have the appropriate professional experience.
4. All parties should establish a time limit for the mediation to be conducted and possible resolution agreed.

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Mediation process

1. The organisation complained about should contact an appropriate independent, fully-trained and experienced mediation service.
2. The mediator will meet with the person(s) who has made the complaint and the organisation/person complained about in separate sessions to discuss their concerns.
3. The mediator should assess who should be at the meeting, for example:
 - There should not be more people representing the organisation than the complainant;
 - The patient/carer should be allowed to have people in the meeting to support them such as family members, carers and those who may be needed to give physical assistance.
4. The mediator will arrange a meeting between the two parties. This should ideally be in a neutral place but should take into account any particular needs of the patient (for example, physical and/or psychological difficulties that make travelling or leaving home difficult or distressing).

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5. The mediator will explain how the session will be run and outline the behaviours expected of each party: for example, showing respect for each other, listening to what each has to say and recognising different viewpoints.
6. The mediator will check the environment is suitable for all involved (heating, light, seating), ensure there are no interruptions (for example, ensure people don't enter the room; mobile phones switched off) and allow for comfort breaks.
7. Each party should be asked to sign a confidentiality agreement
8. The mediator will lead the discussion to:
 - Ensure everyone can tell their story from their perspective without interruption;
 - Everyone is treated fairly and equally;
 - Explore any feelings which need to be aired without sides criticising or blaming each other;
 - Identify the main issues which must be addressed;
 - Identify options and encourage discussion to help both parties reach an amicable agreement.

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9. The mediator may take notes of key points as an aid, but these should be destroyed at the end of the mediation.
10. At the end of the meeting the mediator will summarise the agreed actions and remind both parties of the confidential nature of the discussions, unless both parties agree that actions should be discussed with others who were not at the meeting.

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Case study

Mrs Allen was unhappy about the care her child was receiving in hospital. She wanted to find out more about her child's condition but everyone she asked always seemed too busy to give her any answers or information. She became increasingly anxious and angry and told the Charge Nurse she wanted to make a formal complaint about him and his staff. The Charge Nurse contacted the hospital Patient Advice and Liaison Service which tried to start a discussion between Mrs Allen and the Charge Nurse. Mrs Allen wasn't happy that this dealt with her concerns so she wrote formally to the hospital outlining her complaints. A letter addressing the issues she raised only made her feel that her concerns were being dismissed and she demanded that something be done about the ward staff. The hospital contacted an independent mediation service to ask for support in resolving this, as Mrs Allen was still visibly upset and angry when she was on the ward and the staff were finding it difficult to know how to respond to her. The mediator arranged a meeting with Mrs Allen and, separately, the Charge Nurse

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to allow both to talk through the situation as they saw it. A joint meeting was then arranged where both sides were able to share their experiences, concerns and reflections so they could explore how best to resolve the situation. Mrs Allen was able to describe her fears about her child’s health and her frustration at not getting any answers and feeling ‘brushed off’. The Charge Nurse fed back to Mrs Allen how the staff had been concerned about Mrs Allen’s level of distress and had been trying to reassure her that her child was safe and recovering well. He could now see, from Mrs Allen’s perspective, how this had had the opposite effect and apologised for adding to her distress. Through mediation they were able to agree how Mrs Allen could get the information she needed and, from this, Mrs Allen said she knew who to ask, and when and felt that her concerns had been recognized and understood.

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The NHS Complaints Advocacy Service is a free, independent and confidential service that can help you make a complaint about the NHS: <http://nhscomplaintsadvocacy.org/>

NHS Choices gives information about PALS services and provides a link to PALS services by geography and services: <http://www.nhs.uk/chq/Pages/1082.aspx?CategoryID=68>

Support Empower Advocate Promote (Seap). Free, independent and confidential advocacy services can help resolve concerns about health, wellbeing and social care services: <http://www.seap.org.uk/>

Healthwatch is the national consumer champion for health and care. It provides advice and support for complainants and operates an independent complaints advocacy: <http://www.healthwatch.co.uk/>

NHS Choices has a webpage on advocacy with links to range of services:

<http://www.nhs.uk/Conditions/social-care-and-support-guide/Pages/advocacy-services.aspx>

For details of the NHS complaints process: <http://www.nhs.uk/choiceintheNHS/Rightsandpledges/complaints/Pages/NHScomplaints.aspx>

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Citizens Advice Bureau. How to make a complaint about NHS services:

http://www.adviceguide.org.uk/england/healthcare_e/healthcare_nhs_and_social_care_complaints/complaining_about_the_nhs/tips_and_tools_to_help_you_make_a_complaint_about_health_services.htm

The **NHS Litigation Authority (NHSLA)** handles negligence claims and works to improve risk management in the NHS. When a claim of negligence is made, it acts on behalf of the NHS body involved. It cannot offer advice to patients. It has, however, developed a page explaining how negligence claims are handled and which outlines alternatives to legal action when something goes wrong in the NHS.

<http://www.nhsla.com/CurrentActivity/Pages/InformationForPatients.aspx>

Since July 2014 the NHSLA has offered a mediation service in all suitable cases involving a death or care of an older person. The service includes access to an independent and accredited mediator, selected from a panel drawn from a wide range of backgrounds.

<http://www.nhsla.com/CurrentActivity/Documents/Mediation%20Leaflet.pdf>

The NHS LA's partner for its mediation service is the Centre for Dispute Resolution (CEDR):

<http://www.cedr.com/solve/services/?p=33>.

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[Bite-size guide 2 – Governance for Participation](#)

[Bite-size guide 3 – Planning for Participation](#)

[Bite-size guide 4 – Budgeting for Participation](#)

Guides 5 -15 are also available via the following link:
<https://www.england.nhs.uk/participation/resources/>

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NHS England's series of 'Bite-size guides' aims to help colleagues plan and deliver the best possible patient and public participation, in line with Transforming Participation in Health and Care.

For further information, please contact england.nhs.participation@nhs.net

Produced by the Public Participation team at NHS England.