

Rights and complaints

People with intellectual disability should be involved in all decisions about their health and wellbeing.

Some people can make decisions alone and some people will need support. It is critical that supporters know the person's will and preferences to make sure the right support is provided and the right decision is made.

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 to try to sort the problem out with the service first.

A right to good health care

Under the UN Convention on the Rights of Persons with Disabilities, people with disability 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, including good quality care, to be treated with respect, and clear complaints procedures.

General tips for making a complaint

- It is usually best to raise a concern as soon as the problem arises. Before deciding whether to make a complaint it may be useful to ask a health professional to explain why they acted as they did.
- 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 the health problem and what was done about it.
- Be persistent and try again if they do not get a response.

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, (see below). 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.

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.

Discrimination complaints

Under anti-discrimination law, it is unlawful for health services to discriminate on the basis of disability. For example, by 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 Australian Centre for Disability Law 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.

Ombudsman NSW

The Ombudsmen reviews deaths of people with disability who lived in supported accommodation.

Where to get help

Anti-Discrimination Board NSW (02) 9268 5555 www.lawlink.nsw.gov.au/ADB	Australian Human Rights Commission (02) 9284 9600 Complaints: 1300 656 419 complaints@humanrights.gov.au www.humanrights.gov.au
Australian Centre for Disability Law 1800 800 708 (NSW only) www.disabilitylaw.org.au	Health Care Complaints Commission (02) 9219 7444 Free call: 1800 043 159 hccc@hccc.nsw.gov.au www.hccc.nsw.gov.au
NSW Health (02) 9391 9000 nswhealth@doh.health.nsw.gov.au www.health.nsw.gov.au	Intellectual Disability Rights Service (02) 9318 0144 Free call 1800 666 611 info@idrs.org.au www.idrs.org.au
Ombudsman NSW (02) 9286 1000 Free Call 1800 451 524 nswombo@ombo.nsw.gov.au www.ombo.nsw.gov.au	

For more information

Patient Safety and Clinical Quality Program - NSW Health

www1.health.nsw.gov.au/pds/ActivePDSDocuments/PD2005_608.pdf

Tips for making complaints

www.ombo.nsw.gov.au/_data/assets/pdf_file/0012/1227/BR_TipsMakingComplaint_Mar10.pdf

UN Convention on the Rights of Persons with Disabilities

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 **2018**.

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.