GOV.UK

Department of Health & Social Care

Public Health England

Guidance

Handbook to the NHS Constitution for England

Updated 1 October 2023

Applies to England

Contents

This publication is available at https://www.gov.uk/government/publications/supplements-to-the-nhs-constitution-for-england/the-handbook-to-the-nhs-constitution-for-england

Overview

The NHS Constitution for England (https://www.gov.uk/government/publications/the-nhs-constitution-for-england) aims to safeguard the enduring principles and values of the NHS, and to empower the public, patients and staff to help improve the care it provides by setting out their existing legal rights and the pledges that the NHS has made towards them in one place, and in clear and simple language. It also sets out clear expectations about the behaviour of both staff and patients, and the role they need to play in supporting the NHS.

This handbook is designed to give the public, patients, carers, families and NHS staff additional information they need about every aspect of the NHS Constitution. It will be of use to organisations that support and advise them.

The first and second parts of the handbook explain the NHS guiding principles and values set out in the constitution.

The third part is a guide to patients' rights, including their legal sources, and the further pledges that the NHS has made towards them. It also sets out the responsibilities that patients and the public have for looking after their own health, for working in partnership with NHS staff, and for using NHS resources well and sustainably.

The fourth part explains the rights of NHS staff, and the further pledges the NHS made towards them to help them deliver high quality and compassionate care and to make the NHS a better place to work. It also sets out the expectations the NHS has of staff.

References to the NHS and NHS services in the constitution and this handbook include local authority public health services unless an exception is set out in the text.

Rights and pledges

One of the primary aims of the constitution is to set out clearly what patients, the public and staff can expect from the NHS and what the NHS expects from them in return.

The constitution distinguishes between:

Rights

A right is a legal entitlement protected by law. The constitution does not create legal rights but it sets out a number of rights, which include rights

conferred explicitly by law and rights derived from legal obligations imposed on NHS bodies and other healthcare providers. The constitution brings together these rights in one place, but it does not create new rights or replace existing rights. The rights described in the constitution do not necessarily enable individuals to take action in the courts; they may depend for enforcement on action being taken by other health organisations.

You will also find a description of the legal basis of each right in this handbook. For information on what each right means for patients and staff, see the relevant sections of the handbook.

Pledges

This constitution also contains pledges which the NHS is committed to achieving, supported by management and regulatory systems. The pledges are not legally binding because they express an ambition to improve, going above and beyond legal rights.

This handbook explains in detail what each of the pledges means and current actions to meet them. Some of the pledges, such as those relating to waiting times for treatment, are long-standing commitments. In other areas, the pledges refer to relatively new commitments that the NHS is working towards achieving.

Responsibilities

The constitution sets out expectations of how patients, the public and staff can help the NHS work effectively and ensure that finite resources are used fairly. This handbook gives further information on those responsibilities.

Statutory duties

The Health Act 2009 includes provisions related to the constitution and places a statutory duty on:

- the Secretary of State to ensure that the constitution and the handbook continue to be available to patients, staff and members of the public
- NHS bodies, local authorities, providers of primary care services, and independent and voluntary organisations providing NHS care in England to have regard to the constitution
- the Secretary of State to review the constitution at least once every 10 years, in consultation with patients, staff, carers members of the public and the bodies who are required to have regard to the constitution
- the Secretary of State to republish the constitution if any revisions are

made

- the Secretary of State to only make changes to the guiding principles in accordance with the regulations
- the Secretary of State to review the handbook to the constitution at least once every 3 years and to republish after any revision
- the Secretary of State to consult patients, public, staff, and other persons as appear to be affected in respect of any changes to the constitution
- the Secretary of State to report on the effect of the constitution on patients, staff, members of the public and carers every 3 years

The National Health Service Act 2006 (NHS Act 2006) also includes provisions related to the constitution. These place a statutory duty on:

- the Secretary of State to have regard to the constitution when exercising functions in relation to the NHS
- NHS England, and clinical commissioning groups (CCGs) to promote the constitution. This means that in exercising their functions, they must act with a view to securing health services that are provided in a way that promotes the constitution, and to promote awareness of it, among patients, the public and staff

Applicability

The constitution applies to England. While the core principles of the NHS are shared across all parts of the United Kingdom, the devolved administrations in Scotland, Wales and Northern Ireland are responsible for developing their own health policies.

The rights, pledges and responsibilities in the constitution generally apply to everyone who is entitled to receive NHS services, and to NHS staff. In some cases, there are further rules or considerations that apply. In particular, there are specific rules for people who lack mental capacity, and patients detained under mental health legislation which this handbook describes. The handbook also identifies situations where the NHS should aim to provide services in a manner that specifically takes account of the needs of children.

For the constitution to succeed in its aims, it needs to become part of everyday life in the NHS for patients, the public and staff. Achieving this requires leadership, partnership and sustained commitment over months and years from all those involved in the provision of NHS services, to raise awareness of the constitution and weave it into the way the NHS works at all levels.

What to do if your expectations are not met

Patient feedback

You, your family or someone on your behalf can feed back directly at the point of care, either to the clinician or organisation providing care, or through the local Patient Advice and Liaison Services (PALS). PALS are available in most hospitals and liaise with staff, managers and – where appropriate – other relevant organisations, to seek speedy solutions for problems raised, and to help improve the way services are delivered. PALS may also be able to provide details of locally or nationally-based support agencies. By providing a concise statement of what patients can expect from the NHS, the constitution makes it easier for service users to ask questions and provide challenge at the point of care.

If you would like to raise a concern or provide feedback about services received from your primary care provider (for example, a GP, dentist or pharmacist) or secondary care provider (for example, a hospital) you can do so by contacting them directly. If you would like to raise concerns or provide feedback on your local public health services, you can contact the Director of Public Health at your local authority.

Healthwatch

Healthwatch England is the national consumer champion for both health and social care, and represents the views of patients, service users and the public at the national level. This includes providing information and advice to the Secretary of State for Health and Social Care, NHS England, Care Quality Commission (CQC), and NHS Improvement (which is comprised of Monitor and the Trust Development Authority).

Local Healthwatch ensures that people's views and experiences inform the commissioning, provision and scrutiny of local health and social care services, including through its seat on the local Health and Wellbeing Board. A Health and Wellbeing Board is in place in each upper tier and unitary local authority in England. It brings together local government (elected councillors and senior officers), the local NHS and other key local partners, to provide strategic leadership for the local health and wellbeing system. It is therefore a forum in which leaders from the local health and care system work together to improve the health and wellbeing of their local population, and to reduce health inequalities. The public's views and concerns about their local health and social care services help build a valuable picture of where services are doing well and where they can improve.

Local Healthwatch can also alert Healthwatch England or the CQC to concerns about specific health and care issues and providers, and can provide people with information about local services and what to do when things go wrong, including on how to complain.

Making a complaint

See the NHS website for information on how to make a complaint (https://www.nhs.uk/using-the-nhs/about-the-nhs/how-to-complain-to-the-nhs/) and other ways to give feedback on NHS services.

Staff

You should contact your line manager in the first instance about any concerns you may have, and your organisation will also have formal routes for raising complaints that you may use. You can use the National Guardian's Office website to find your Freedom To Speak Up Guardian (https://nationalguardian.org.uk/speaking-up/find-my-ftsu-guardian/). Freedom to Speak Up Guardians support workers to speak up when they feel that they are unable to in other ways.

Feedback on the handbook

If there is anything in this handbook which is unclear, or anything is missing, please contact DHSC (https://www.gov.uk/government/organisations/department-of-health-and-social-care) and let us know how we can improve it.

NHS values

This section explains the common values that underpin the NHS. The values are integral to creating a culture where patients come first in everything the NHS does.

These values are not intended to be limiting. Individual organisations should use them as a basis on which to develop their own, adapting them to local circumstances. The values should be taken into account when developing services with partner organisations, patients, the public and staff.

Working together for patients

The value of 'working together for patients' is central to guiding service provision in the NHS and other organisations providing health services. Patients must come first in everything the NHS does. All parts of the NHS system should act and collaborate in the interests of patients, always putting patient interest before institutional interest, even when that involves admitting mistakes. As well as working with each other, health service organisations and providers should also involve staff, patients, carers and local

communities to ensure they are providing services tailored to local needs.

Respect and dignity

Every individual who comes into contact with the NHS and organisations providing health services should always be treated with respect and dignity, regardless of whether they are a patient, carer or member of staff. This value seeks to ensure that organisations treat people as individuals, valuing and respecting different needs, aspirations and priorities and taking them into account when designing and delivering services. The NHS aims to foster a spirit of candour and a culture of humility, openness and honesty, where staff communicate clearly and openly with patients, relatives and carers.

Commitment to quality of care

The NHS aspires to the highest standards of excellence and professionalism in the provision of high quality care that is safe, effective and focused on patient experience. Quality should not be compromised – the relentless pursuit of safe, compassionate care for every person who uses and relies on services is a collective endeavour, requiring collective effort and collaboration at every level of the system. The delivery of high quality care is dependent on feedback; organisations that welcome feedback from patients and staff can identify and drive areas for improvement.

Compassion

Compassionate care ties closely with respect and dignity in that individual patients, carers and relatives must be treated with sensitivity and kindness. The business of the NHS extends beyond providing clinical care and includes alleviating pain and distress and ensuring people feel valued and that their concerns are important. NHS staff should also expect to work in an environment that is compassionate and inclusive.

Improving lives

The core function of the NHS is emphasised in this value – the NHS seeks to

improve the health and wellbeing of patients, communities and its staff through professionalism, innovation and excellence in care. This value also recognises that to really improve lives the NHS needs to be helping people and their communities take responsibility for living healthier lives.

Everyone counts

We all have a responsibility to maximise the benefits we obtain from NHS resources, ensuring they are distributed fairly to those most in need. Nobody should be discriminated against and everyone should be treated with equal respect and importance.

Principles that guide the NHS

The guiding principles set out in the constitution are the enduring high-level 'rules' that govern the way that the NHS operates, and define how it seeks to achieve its purpose. They are underpinned by the core NHS values and can only be changed by regulations in Parliament.

Like the NHS Constitution itself, the principles should be embedded at every level within the health service and among those organisations providing NHS services.

Principle 1: The NHS provides a comprehensive service available to all

The NHS provides a comprehensive service, available to all irrespective of gender, race, disability, age, sexual orientation, religion, belief, gender reassignment, pregnancy and maternity, or marital or civil partnership status. The service is designed to improve, prevent, diagnose and treat both physical and mental health problems with equal regard. It has a duty to each and every individual that it serves and must respect their human rights. At the same time, it has a wider social duty to promote equality through the services it provides and to pay particular attention to groups or sections of society where improvements in health and life expectancy are not keeping pace with the rest of the population.

This principle makes clear that the NHS covers every branch of medical and

allied activity, and that it exists to address both mental and physical health. NHS services should be available to everyone: no individual should be excluded from receiving NHS services based on the characteristics cited. The protected characteristics set out in this principle are the same as those listed in the Equality Act 2010.

Legal duties require NHS England and each CCG to have regard to the need to reduce inequalities in access to health services and the outcomes achieved for patients.

This principle is mindful of the NHS's integral role in alleviating health inequalities, which the World Health Organization defines as 'differences in health status or in the distribution of health determinants between different population groups.' The principle makes clear that the NHS has a 'wider social duty to promote equality through the services it provides'. This is a reference to the Public Sector Equality Duty arising from the Equality Act.

Principle 2: Access to NHS services is based on clinical need, not an individual's ability to pay

This principle states unequivocally that NHS services should be free at the point of use, except where charges are expressly provided for in legislation (for example, prescription charging and dentistry). Any decision to introduce new charges would need to be sanctioned by Parliament.

Principle 3: The NHS aspires to the highest standards of excellence and professionalism

This principle highlights the standards of excellence and professionalism that all parts of the NHS should aspire to when providing high quality care. In line with Lord Ara Darzi's definition of quality, as set out in 'High Quality Care for All: NHS Next Stage Review Final Report' (2008) (https://www.gov.uk/government/publications/high-quality-care-for-all-nhs-next-stage-review-final-report), this principle explains that quality in healthcare focuses on effectiveness, safety and patient experience. The NHS Act 2006 provides a further legal basis to this principle, placing duties on the Secretary of State, NHS England and CCGs to secure continuous improvement in the quality of outcomes achieved by health services.

This principle also recognises that the NHS is dependent on its staff, and that it is only when staff are valued and supported that patients receive excellent

care. This goes beyond education, training and development and includes, for instance, being listened to and treated with respect and understanding. It also emphasises the importance of patients being treated with respect, dignity, compassion and care.

The importance of innovation and medical research is underscored by this principle as integral to driving improvements in healthcare services for patients.

Principle 4: The patient will be at the heart of everything the NHS does

The NHS should support individuals to promote and manage their own health. NHS services must reflect, and should be co-ordinated around and tailored to, the needs and preferences of patients, their families and their carers. The NHS will ensure that in line with the Armed Forces Covenant, those in the armed forces, reservists, their families and veterans are not disadvantaged in accessing health services in the area they live. Patients, with their families and carers, where appropriate, will be involved in and consulted on all decisions about their care and treatment. The NHS will actively encourage feedback from the public, patients and staff, welcome it and use it to improve its services.

This principle enshrines the NHS as a patient-centred service, emphasising that patients will be at the heart of everything the service does. It accentuates that, rather than being passive recipients of healthcare, patients also play a key role in managing their own health and should be actively supported by the NHS to do so. It recognises the need for patients, along with their families and carers, to be involved in discussions about their care, where it is appropriate to do so. The words ‘where appropriate’ reflect the fact that involvement in all discussions and decision-making may not be possible in all instances, such as for practical reasons or where a patient has not consented to the involvement of their families and carers in discussions. The importance of individuals being involved in their own care and treatment is set out in the NHS Act 2006, which placed duties on commissioners to do this.

This principle also highlights that NHS services should be co-ordinated around and tailored to the needs and preferences of patients. The NHS Act 2006 also places duties on commissioners to promote integration.

Finally, this principle makes clear that the NHS will encourage and welcome feedback from patients, the public and staff. It recognises that service improvement is dependent on feedback.

Armed Forces Covenant

As part of this principle and in line with the Armed Forces Covenant (https://www.gov.uk/government/publications/the-armed-forces-covenant), the NHS will ensure that members of the armed forces community (including those serving, reservists, their families and veterans) are supported, treated equally and receive the same standard of, and access to healthcare, as any other UK citizen in the area where they live. For those with concerns about their mental health who may not present for some time after leaving service, they should be able to access services with health professionals who have an understanding of armed forces culture. Veterans who have lost a limb as a result of their service will be able to access prostheses that reflect their clinical need.

Veterans, reservists (while not serving) and armed forces families receive their healthcare from the NHS and are encouraged to identify themselves to their GP as members of the armed forces community. For further information on what you can expect if in the armed forces community see Section C.2 Scope of the covenant, Healthcare. For families of serving personnel moving around the country, any time taken on an NHS treatment waiting list will be taken into account in their new location.

The Armed Forces Covenant sets out the relationship between the nation, the government and the armed forces community. The covenant aims to ensure that those who the armed forces, whether as regular personnel or as a reservist, their families and those who have served in the past (veterans), should face no disadvantage compared to other citizens in the provision of public and commercial services. Special consideration is appropriate in some circumstances. The Armed Forces Covenant looks to address a wide range of issues impacting on the armed forces community, including health, education, housing, care and family life.

Principle 5: The NHS works across organisational boundaries and in partnership with other organisations in the interest of patients, local communities and the wider population

This principle makes clear that patient interest comes before institutional interest, and that organisations involved in delivering NHS services (including local authority public health services) must work with each other and with other organisations if they are to achieve genuine improvements in the population's health and wellbeing.

In addition, the NHS should work with the full range of local authority

services, for example social care services, children's services and education services. The NHS should also work with other public sector organisations, for example, the police and criminal justice system, as well as private and voluntary sector organisations.

All organisations involved in delivering NHS services should share the values and principles enshrined in the NHS Constitution.

Principle 6: The NHS is committed to providing best value for taxpayers' money and the most effective, fair and sustainable use of finite resources

As the NHS is funded by public money, this principle highlights the importance of using this funding fairly in a way that benefits everyone the NHS serves. The NHS seeks to maximise benefits within the constraints of limited resources.

Principle 7: The NHS is accountable to the public, communities and patients that it serves

This principle recognises that as a taxpayer-funded service, the government is accountable to Parliament for the outcomes and spending of the NHS. There are various levels of responsibility and accountability for the NHS, and these must be clear to the public, patients and staff. The government is required to explain how these accountabilities work in the Statement of NHS Accountability.

Patients and the public: your rights and the NHS pledges to you

Overview

The rights and pledges set out in this section of the constitution cover 7 key areas:

- access to health services
- quality of care and environment
- nationally approved treatments, drugs and programmes
- respect, consent and confidentiality
- informed choice
- involvement in your healthcare and in the NHS
- complaints and redress

Fundamental standards

All providers registered with the CQC must comply with the fundamental standards as set out in Regulations 8 to 20 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (SI 2014/2936). The fundamental standards apply to all registered persons registered with the CQC. Most providers of health services are required to register with the CQC – including, for example, NHS bodies and local authorities.

The fundamental standards set the line below which care and treatment must never fall. They are clear outcomes about the quality and safety of care that all registered health and adult social care providers must meet. The fundamental standards are legal requirements that NHS hospitals, NHS foundation trusts, GP practices, ambulance services and other providers of NHS services must meet when providing healthcare and treatment.

It is the CQC's role to make sure that providers meet the requirements contained in the fundamental standards, and to take action against providers who fail to meet them. The CQC can prosecute providers of health services for a breach of some regulations.

Individual patients cannot enforce the fundamental standards directly through the courts, but if providers are not meeting their legal duties under the fundamental standards, the CQC can take action against that provider. Where rights contained in the fundamental standards are reflected elsewhere, there may be an alternative mechanism that enables individuals to enforce these rights. For example, one of the fundamental standards protects the right to safe care and treatment. Although individuals cannot enforce the fundamental standards directly, the law of negligence imposes on providers of healthcare a duty to take reasonable care and skill in the provision of treatment or other healthcare. If those providing your care do not take reasonable care to ensure that you receive safe treatment, and you are injured as a result, you may be able to bring an action in the courts for negligence.

Rights and pledges covering access to health services

Right: 'You have the right to receive NHS services free of charge, apart from certain limited exceptions sanctioned by Parliament.'

NHS services are generally provided free of charge. This includes access to local services like your GP, hospital or clinic, or health improvement services provided by your local authority, so you do not have to worry about payment.

There are some exceptions: for example, some people will have to pay for prescription charges and visits to the dentist. Overseas visitors may also have to pay charges.

Source of the right

Section 1 of the NHS Act 2006 sets out the primary duty on the Secretary of State to promote a comprehensive health service and to exercise the Secretary of State's functions to secure the provision of services for that purpose. The section goes on to state that services provided as part of the health service must be provided free of charge (unless making the recovery of charges are expressly provided for). The requirement to provide services free of charge applies in particular to hospital and community health services (services commissioned by NHS England and CCGs under sections 3 and 3B of the Act), including where such services are arranged or provided by an Integrated Care System and to public health services (services provided or arranged by local authorities under sections 2A and 2B of the Act).

For GP primary care services, the legislation that governs the arrangements (under which those services are commissioned by NHS England) does not generally permit the charging of patients (sections 83, 99, 115 and 126 of the NHS Act 2006). This differs to Dental and Ophthalmic services whereby the legislation enables the making and recovery of charges for the service. The exception to this is secondary care dental services which are commissioned via the NHS standard contract and it is not permissible to deduct/collect patient charges for services provided under those contracts.

There are a number of exceptions to the general prohibition on charging. In particular:

- prescription charges – section 172 of the NHS Act 2006 enables the Secretary of State to make regulations imposing prescription charges
- dental charges – section 176 enables the Secretary of State to make regulations imposing charges for relevant dental services
- ophthalmic charges – section 179 enables the Secretary of State to make regulations providing for the making and recovery of charges for the supply of optical appliances
- charges for overseas visitors – section 175 enables the Secretary of State

to make regulations imposing charges where certain non-UK residents receive NHS services

There is provision for local authorities to charge for certain services, but not those provided to an individual for the purpose of improving their health (see regulation 9 of the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013).

Right: 'You have the right to access NHS services. You will not be refused access on unreasonable grounds.'

NHS services will always be available for the people who need them. No one can deny you the right to access these services because of your age, disability, race, gender or gender reassignment, sexual orientation, pregnancy and maternity, religion or belief, or marital or civil partnership status. Access to NHS services is not denied in situations where patients pay for additional private care separately. Further information is set out in the government's response to Professor Richards's report, 'Improving access to medicines for NHS patients' (https://www.gov.uk/government/publications/nhs-patients-who-wish-to-pay-for-additional-private-care) (2008).

If you are in the armed forces, the Ministry of Defence (https://www.gov.uk/government/organisations/ministry-of-defence) is responsible for your medical care. Primary care will generally be provided by Defence Medical Services and secondary care by the NHS.

Source of the right

The Equality Act 2010 makes it unlawful for a public authority in the exercise of its functions, and for persons (including public authorities) providing goods, facilities or services to the public, to discriminate on specified grounds (subject to exceptions).

The National Health Service Act 2006 places duties on NHS England and CCGs to have regard to the need to reduce inequalities in access to, and outcomes from, healthcare services for patients, and to assess and report on how well they have fulfilled this duty.

Furthermore, NHS England, CCGs, NHS trusts and NHS foundation trusts must act in accordance with administrative law: their policies and decisions must be in accordance with their statutory duties, be reasonable and procedurally fair. In addition to the legislation on discrimination, therefore, it would be unlawful for those bodies to refuse access on unreasonable grounds.

Right: 'You have the right to receive care and treatment that is appropriate to you, meets your needs and reflects your preferences.'

Your care and treatment needs and preferences should be assessed by

people with the required levels of skill and knowledge for the task, and met where possible.

This right should ensure that your care and treatment is well planned and that you are treated as an individual. The plans for your care and treatment should be reviewed regularly and whenever necessary, for example when you transfer between services.

There may be times when your needs and preferences cannot be met for some reason. In these instances, providers must explain the impact of this to you, and explore alternatives so that you can make informed decisions about your care and treatment.

Source of the right

This right reflects the fundamental standard about person-centred care, which is set out in regulation 9 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

The purpose of the 'person-centred care' fundamental standard is to ensure that providers of health and adult social care services plan and provide patient care and treatment that is appropriate, meets their needs, and reflecting their preferences.

Right: ‘You have the right to expect your NHS to assess the health requirements of your community and to commission and put in place the services to meet those needs as considered necessary, and in the case of public health services commissioned by local authorities, to take steps to improve the health of the local community.’

CCGs are responsible for commissioning most local health services. NHS England is responsible for commissioning primary care services (including the services provided by your local GP surgery, community pharmacies, dental services, and NHS sight tests). NHS England also commissions 'specialised' services for the small number of people who have rare health conditions, together with prison health services and some health services for members of the armed forces community. Local authorities are responsible for providing and commissioning public health services.

All bodies commissioning services must assess the health requirements of the populations they serve, take account of inequalities in access to and outcomes from healthcare services, and commission the services that they consider necessary to meet the population's needs.

CCGs are working closely with local authorities, and their partners including Health and Wellbeing Boards and Local Healthwatch, to assess and address local needs across health, public health and social care through joint strategic needs assessments and local commissioning plans.

Source of the right

The legislation under which NHS England, and CCGs commission services requires them to arrange for the provision of services for which they are responsible to such extent as they consider necessary to meet all reasonable requirements (sections 3, 3B, 83, 99, 115 and (with some differences) 126 of the NHS Act 2006).

Local authorities have a duty to take such steps as they consider appropriate to improve the health of the people in their area (section 2B of the NHS Act 2006) and additional duties in relation to particular services (see the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013).

Right: You may have the right to seek authorisation for planned treatment in other countries: the EU member states, Norway, Iceland, Liechtenstein or Switzerland if you are covered under an applicable international agreement between that country and the UK and you meet the relevant eligibility requirements.

Healthcare agreements providing rights to planned treatment abroad

These agreements provide entitlements to reciprocal healthcare cover to persons for whose healthcare the UK is responsible. This includes funding for planned treatment (also known as the S2 route) in the countries covered by the agreement, where you meet the eligibility requirements.

Healthcare agreement	Countries covered	People within scope
UK/EU Trade and Cooperation Agreement	member states of the European Union	UK insured individuals: those who are ordinarily resident in the UK or who have paid the immigration healthcare surcharge; UK issued S1 holders; family members of a person in one of these groups

Healthcare agreement	Countries covered	People within scope
UK/EU Withdrawal Agreement	member states of the European Union, Norway, Iceland, Liechtenstein and Switzerland	UK state pensioners or EEA or Swiss nationals who have been living in Norway, Iceland, Liechtenstein or Switzerland since 31 December 2020 or earlier; or frontier workers who have been working in those countries since 31 December 2020 or earlier; family members of a person in one of these groups
UK - Switzerland Convention on Social Security Coordination	Switzerland	UK nationals (including British overseas territory citizens who acquired their citizenship from a connection with Gibraltar); Swiss nationals; EU nationals; stateless persons and refugees; family members or survivors of a person in one of these groups

Accessing planned treatment abroad

You can apply for planned treatment in other countries under one of the above agreements if:

- you are resident in the UK and your treating NHS consultant agrees that you should be offered a particular treatment on the NHS
- the NHS cannot provide it without undue delay, taking relevant circumstances into account

What constitutes ‘undue delay’ is determined by a clinical assessment of a medically acceptable period of time for a patient to obtain treatment. This should be considered on a case-by-case basis and be subject to ongoing review until the treatment is received.

Planned treatment only covers treatment from a provider in the state system. It will not cover private providers.

You should be treated as if you are insured under the legislation of the country treating you. This means that if patients from that country in the same circumstances have to make an additional payment for particular care, so will you. If you have to make such a payment, you may be able to request reimbursement of your costs from the NHS.

Before going abroad for medical treatment, it is important to get enough information to enable you to make the right choices. You should consider:

- whether you are likely to have language difficulties in the country where you plan to have treatment
- how much you know about the medical practitioners and clinics you intend using
- how your medical notes would be exchanged between medical teams in the UK and abroad
- how your aftercare would be coordinated when you return home
- how you would deal with any complaint or problem should something go wrong following your treatment (the NHS is not liable for negligence or failure of treatment)
- whether you meet the visa requirements of the country of treatment

Source of the right

Reciprocal healthcare benefits operate on the terms agreed with other countries under the relevant healthcare arrangement. See the list of healthcare arrangements covering the UK and countries in the EEA and Switzerland (https://www.gov.uk/government/publications/healthcare-arrangements-covering-the-uk-and-countries-in-the-eea-and-switzerland).

Right: 'You have the right not to be unlawfully discriminated against in the provision of NHS services including on grounds of gender, race, disability, age, sexual orientation, religion, belief, gender reassignment, pregnancy and maternity or marital or civil partnership.'

Source of the right

The Equality Act 2010 makes it unlawful for a person providing services to discriminate on various grounds listed above (subject to certain exceptions).

In addition, where your human rights are engaged (for example, Article 2 of the European Convention on Human Rights (ECHR) (right to life)), discrimination may be contrary to Article 14 of the ECHR.

Individual health professionals are also governed by the standards set under the professional regulatory regime that applies to their profession.

This right is also based on the fundamental standard of safeguarding service users from abuse and improper treatment as set out in regulation 13 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. Additionally, Regulation 10 (Dignity and Respect) includes a requirement to have regard to any relevant protected characteristics.

Right: 'You have the right to access certain services commissioned by NHS bodies within maximum waiting times, or for the NHS to take all reasonable steps to offer you a range of suitable alternative providers if this is not possible. The waiting times are described in the handbook to the NHS Constitution.'

You have the right to:

- start your consultant-led treatment within a maximum of 18 weeks from referral for non-urgent conditions
- be seen by a cancer specialist within a maximum of 2 weeks from GP referral for urgent referrals where cancer is suspected

If this is not possible, the CCG or NHS England, which commissions and funds your treatment, must take all reasonable steps to offer a suitable alternative provider, or if there is more than one, a range of suitable alternative providers, that would be able to see or treat you more quickly than the provider to which you were referred. A suitable alternative provider is one that can provide clinically appropriate treatment and is commissioned by a CCG or NHS England. You will need to contact either the provider you have been referred to or your local CCG before alternatives can be investigated for you. Your CCG or NHS England must take all reasonable steps to meet your request.

Your right to start treatment within 18 weeks from referral will include treatments where a consultant retains overall clinical responsibility for the service or team, or for your treatment. This means the consultant will not necessarily be physically present for each appointment, but will take overall responsibility for your care. The setting of your consultant-led treatment, for example whether hospital based or in a GP-based clinic, will not affect your right to start treatment within 18 weeks.

Exceptions

The right to treatment is subject to various exceptions. In particular, the right to treatment within 18 weeks from referral will cease to apply in circumstances where:

- you choose to wait longer
- delaying the start of your treatment is in your best clinical interests, for example where smoking cessation or weight management is likely to improve the outcome of the treatment
- it is clinically appropriate for your condition to be actively monitored in secondary care without clinical intervention or diagnostic procedures at that stage
- you fail to attend appointments which you had chosen from a set of reasonable options
- the treatment is no longer necessary

The following services are not covered by the right:

- services that are not consultant-led
- maternity services
- public health services provided or commissioned by local authorities

Source of the right

Part 9 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012, as amended from time to time.

Pledge: 'The NHS commits to provide convenient, easy access to services within the waiting times set out in the handbook to the NHS Constitution.'

All patients should receive high-quality care without any unnecessary delay.

Patients can expect to be treated at the right time and according to their clinical priority. Patients with urgent conditions, such as cancer, will be able to be seen and receive treatment more quickly. Organisations' performance is monitored across all waiting time pledges.

There are a number of government pledges on waiting times, including:

- a maximum one month (31-day) wait from a decision to treat, or earliest clinically appropriate date, to treatment of cancer
- a maximum 2-month (62-day) wait from receipt of an urgent GP (or other referrer) referral for urgent suspected cancer or breast symptomatic referral, or urgent screening referral, or consultant upgrade, to first definitive treatment of cancer
- a maximum 28 day wait from receipt of an urgent referral for suspected cancer, receipt of urgent referral from a cancer screening programme, or receipt of urgent referral of any patient with breast symptoms (where cancer not suspected) to the date the patient is informed of a diagnosis or that cancer is ruled out
- a maximum 4-hour wait in A&E from arrival to admission, transfer or discharge
- patients waiting for a diagnostic test should have been waiting less than 6 weeks from referral
- a maximum 7-day wait for follow-up after discharge from psychiatric in-patient care for people under adult mental illness specialties on Care Programme Approach
- all patients who have operations cancelled, on or after the day of admission (including the day of surgery), for non-clinical reasons to be offered another binding date within 28 days, or the patient's treatment to

be funded at the time and hospital of the patient's choice

- 75% of people referred to the improving access to psychology therapies (IAPT) programme should begin treatment within 6 weeks of referral and 95% of people referred to the IAPT programme should begin treatment within 18 weeks of referral
- more than 56% of people experiencing a first episode of psychosis will start treatment within a NICE-recommended package of care with a specialist early intervention in psychosis service within 2 weeks of referral
- all ambulance trusts to:
  - respond to Category 1 calls in 7 minutes on average, and respond to 90% of Category 1 calls in 15 minutes
  - respond to Category 2 calls in 18 minutes on average, and respond to 90% of Category 2 calls in 40 minutes
  - respond to 90% of Category 3 calls in 120 minutes
  - respond to 90% of Category 4 calls in 180 minutes

In addition, local authorities with public health responsibilities should bear in mind that it is best practice for the care of patients and their sexual partners to offer genito-urinary medicine appointments as soon as possible, and that the clinical evidence indicates a maximum of 48 hours.

More information on the 31-day cancer waiting time

One month (31 day) standards for first and any subsequent cancer treatments have been combined into one measure from 1 October 2023.

For all first treatments, and many subsequent treatments, the start of this date will be the ‘decision to treat’ date, defined in NHS England’s guidance for monitoring and recording cancer waiting times (https://www.england.nhs.uk/publication/national-cancer-waiting-times-monitoring-dataset-guidance/) as “the date the patient agrees a treatment plan, ie the date that a consultation between the patient and the clinician took place and a planned cancer treatment was agreed”.

For some subsequent treatments that are the next phase of a pre-agreed plan, the ‘earliest clinically appropriate date’ is used as the start date for this period of treatment, defined as “the earliest date that it is clinically appropriate for the next activity that actively progresses a patient along the pathway to take place.”

This allows for the appropriate clinical management of patient pathways, and for appropriate recovery time between bouts of often taxing and invasive treatment.

Pledge: ‘The NHS pledges to make decisions in a clear and transparent way, so that patients and the public can understand how services are

planned and delivered.'

NHS England and CCGs are responsible for involving their patients, carers and the public in decisions about the services they commission. Furthermore, CCGs must consult on their annual commissioning plans and any changes that may affect patient services.

In addition to the legal duty on NHS organisations to involve people and their representatives about services, patients and the public are placed at the heart of local decision-making through health and wellbeing boards.

Local Authority Health and Wellbeing Boards will bring together key local system leaders of health and wellbeing, including local councillors, directors of public health, commissioners of adult social care and children's services, CCGs and local Healthwatch to undertake Joint Strategic Needs Assessments (JSNAs) and to develop Joint Health and Wellbeing Strategies (JHWSs) which inform local authority, CCG and NHS England commissioning plans.

Local authority directors of public health have a duty to publish annual reports on the health of the local population. Transparency at local level is enhanced by the Public Bodies (Admission to Meetings) Act 1960, which opened up meetings to the public, allowing members of the public and press to attend meetings of councils. Additionally, the Local Government Act 2000 provides people with access to information held by local authority executives, like leaders and elected mayors.

JSNAs and JHWSs must be published and health and wellbeing boards should consider a variety of means of disseminating these in a way that makes them accessible to the public. Among other things, the publication allows the health and wellbeing board to show the local community that their needs, inequalities and key priorities were considered properly and their views and feedback were listened to and acted upon.

Healthwatch works to ensure that the views and feedback from patients and users are an integral part of local commissioning. Local Healthwatch do this partly through their statutory seat on the Health and Wellbeing Board while Healthwatch England advise and provide information to the Secretary of State, NHS England, NHS Improvement, English local authorities and the CQC. Both Healthwatch England and Local Healthwatch organisations must produce annual reports, which may include information about how their activities have had an impact on the design and delivery of health and care services.

Pledge: 'The NHS pledges to make the transition as smooth as possible when you are referred between services, and to put you, your family and carers at the centre of decisions that affect you or them.'

Providing effectively integrated care, achieving better outcomes for service

users in a cost-effective way is a key priority for the NHS. In particular, improving integration between health and social care is an important ambition, as signalled in the Health and Social Care Act 2012, the Care & Support White Paper and the Care Act 2014, which introduced important measures to further promote integrated care.

The NHS and partner organisations, such as local authority social services departments, are jointly responsible for delivering integrated care. The NHS has a duty to work in partnership with local authorities to provide you with effective and personalised services that meet your health and wellbeing needs. In doing so, the NHS and partner organisations, should co-ordinate their health and social care services, where this is the best way of meeting your needs. The government's mandate to NHS England and NHS Improvement which is published annually on GOV.UK sets out the areas of health and care where the government expects to see improvements.

Rights and pledges covering quality of care and environment

Right: 'You have the right to be treated with a professional standard of care, by appropriately qualified and experienced staff, in a properly approved or registered organisation that meets required levels of safety and quality.'

NHS staff must treat you with reasonable care (this will be determined by the health professional's practice) in your treatment or when providing other healthcare. The staff who provide NHS services must be appropriately qualified and have the experience needed to do their jobs well. Where appropriate they are governed by professional bodies and/or regulators.

As well as taking reasonable care to ensure a safe system of healthcare and using suitably qualified and experienced staff, NHS and private organisations must register with the CQC when providing a regulated activity as set out in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014, and ensure they are meeting essential safety and quality standards on an on-going basis.

Source of the right

The law of negligence imposes a duty of care on providers of healthcare. This is a duty to take reasonable care and skill in the provision of treatment or other healthcare. For a health professional, what constitutes 'reasonable care and skill' will be determined by reference to professional practice. In the case of an NHS body or private organisation, it must take reasonable care to ensure a safe system of healthcare – using appropriately qualified and

experienced staff.

If a provider breaches the duty and as a result causes injury to a patient, the patient can claim damages to compensate for the injury and resulting financial loss.

Regulations under the NHS Act 2006 governing the provision of GP and most other primary care services require practitioners to exercise reasonable care and skill in the delivery of obligations under their contracts.

Individual health professionals are also governed by the standards set under the professional regulatory regime that applies to their profession.

Under the Health and Social Care Act 2008 persons who carry out regulated activities in England, including NHS and private and voluntary providers, have to register with the CQC and meet these essential requirements of safety and quality.

This right is also based on the fundamental standards in regulation 12 (safe care and treatment) and regulation 19 (fit and proper persons employed) of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

The CQC's role is to encourage service providers to improve care by regulating and inspecting services. The CQC ensures that only persons who have made a legal declaration that they meet the essential fundamental standards are allowed to carry out regulated activities. The CQC actively works as part of the wider system to detect and address failing organisations, sharing its findings with other regulators, including NHS Improvement, and the commissioners of services.

Right: ‘You have the right to be cared for in a clean, safe, secure and suitable environment.’

The quality, design and general upkeep of healthcare premises has a material impact on the health and wellbeing of those using them. Those providing your care and treatment must take reasonable steps to ensure it is delivered in appropriate premises with adequate equipment. This right applies to patients and services users as well as staff and visitors.

Healthcare should always be provided in a clean, safe, secure and suitable environment. In practical terms this means that in addition to complying with specific legal requirements that are set out in health and safety legislation and the law relating to negligence, healthcare providers should:

- ensure that their premises are always “visibly clean and free from odours that are offensive or unpleasant”
- have robust assurance arrangements in place to provide and maintain high

standards of safety, security and suitability for their premises and equipment at all times

- make sure that organisations and individuals with responsibility for the safety of premises and equipment are appropriately governed, adequately trained and qualified, apply the correct protocols and follow best practice guidance. These requirements are set out in the guidance for providers on meeting the regulations (https://www.cqc.org.uk/files/guidance-providers-meeting-regulations), published by CQC, March 2015

The extent to which your right to a clean, safe, secure and suitable environment applies may be dependent on the circumstances and where you are receiving care. For example, if you are in your own home or using your own equipment, your provider may not be responsible for the standard of cleanliness. Regardless of where you are receiving care or treatment, if you are concerned about standards of cleanliness for which your provider is responsible, let the staff know.

The CQC will check that healthcare providers are meeting all these requirements and act against providers who fail to meet them.

Source of the right

This right is based on the specific fundamental standards relating to safe care and treatment, premises and equipment, and good governance set out in regulations 12, 15 and 17 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

The law of negligence also imposes a duty of care on providers of healthcare. This is a duty to take reasonable care and skill in the provision of treatment or other healthcare. For a healthcare professional, what constitutes ‘reasonable care and skill’ will be determined by reference to professional standards. In the case of an NHS body or private organisation, it must take reasonable care to ensure a safe system of healthcare using appropriately qualified and experienced staff. If a provider breaches the duty and as a result causes you injury, you are entitled to make a claim for damages to compensate for the injury and resulting financial loss.

Right: ‘You have the right to receive suitable and nutritious food and hydration to sustain good health and wellbeing.’

Where you are provided with accommodation or an overnight stay as part of your care or treatment, or where you receive nutrition and hydration as part of your care and treatment, your nutrition and hydration needs must be met. You should receive suitable nutrition and hydration appropriate to your individual needs, whether nutritionally well or nutritionally vulnerable, and your needs must be regularly reviewed. Patients should be screened for malnutrition in order to inform their individual plan of care.

Nutrition and hydration can range from food and drink provided by the catering service, to specialist nutritional interventions administered by clinical staff. Dietary requirements should be reasonably met, whether specific or unusual to an organisation's general population, for example cultural or religious.

In order for patients to receive appropriate nutrition and hydration, it is important that unnecessary activity is ceased to protect mealtimes. Those who require assistance to eat and drink should receive appropriate support, including encouraging involvement of family members/carers where possible.

Source of the right

This right is based on the fundamental standard about nutrition and hydration, which is set out in regulation 14, and standards relating to person-centred care and good governance in regulations 9 and 17 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

The nutrition and hydration fundamental standard requires providers registered with CQC to ensure that the patient's needs for food and drink are met, that they are given suitable and nutritious food (or other sources of nutrition where needed) and are given any support they may need to eat or drink. The standard also requires providers to meet any reasonable requirements for food and drink arising from their preferences or religious or cultural background.

NHS organisations are expected to meet any hospital food standards identified in the NHS Standard Contract covering patient nutrition and hydration, healthier eating for the whole hospital community and sustainable food and catering services.

Right: ‘You have the right to expect NHS bodies to monitor, and make efforts to improve continuously, the quality of healthcare they commission or provide. This includes improvements to the safety, effectiveness and experience of services.’

Quality of care is personal to each individual patient – you have the right to high-quality care that is safe, effective and right for you.

NHS England and CCGs have a duty to act with a view to securing continuous improvements in the quality of services provided to individuals. Improvements will be measured in terms of the actual outcomes achieved for patients, including those that show the effectiveness of the services being provided, the safety of the services being provided, and the quality of the experience undergone by patients.

To help achieve this, NHS bodies have put in place systems to measure and improve the overall care they provide, so that they can find out how well they are delivering these standards of care.

The NHS and local authorities will also monitor effectiveness and outcomes more systematically through measurement against metrics. At a national level, quality improvement will be measured through the Outcomes Frameworks. The NHS Outcomes Framework (https://digital.nhs.uk/data-and-information/publications/statistical/nhs-outcomes-framework) sets out over 60 indicators designed to measure outcomes across the NHS and covering effectiveness of care, patient experience and patient safety.

NHS England has translated, where possible, these national outcome indicators down to CCG level through the Clinical Commissioning Group Outcome Indicator Set (https://digital.nhs.uk/data-and-information/publications/clinical-indicators/ccg-outcomes-indicator-set). A more varied set of metrics appear in the CCG Improvement and Assessment Framework (https://www.england.nhs.uk/commissioning/regulation/ccg-assess/).

In its current format the Public Health Outcomes Framework (https://www.gov.uk/government/collections/public-health-outcomes-framework) is made up of 75 high level indicator categories, which include 161 individual indicators across a set of overarching indicators, that deal with aspects of life expectancy, and then cover 4 additional areas: improving wider determinants of health, improving health, health protection, and healthcare, public health and preventing premature mortality.

The majority of the 161 indicators in the Public Health Outcomes Framework (https://www.gov.uk/government/collections/public-health-outcomes-framework) are available at Upper Tier Local authority level, though some indicators are only available at a regional or at an England level.

In addition, the National Institute for Health and Care Excellence (NICE) supports the NHS to understand what high-quality care looks like through the development of robust evidence-based guidance and quality standards. These can be used by health and care practitioners, commissioners and providers to assess and improve the quality of the services that they offer.

Source of the right

The NHS Act 2006 places a duty on NHS England to exercise its functions effectively, efficiently and economically (section 13D), and a duty as to the improvement in quality of services provided to individuals (section 13E). CCGs are also under a duty to assist and support NHS England in discharging its duty under section 13E so far as relating to securing continuous improvement in quality of primary medical services (section 14S) of the NHS Act 2006. CCGs are also under a similar duty as to improvement in quality of services (section 14R).

Those provisions also place a duty on the Secretary of State (section 1A(4)) and NHS England (section 13E(4)), in discharging those duties, to have regard to any quality standards prepared by NICE under section 234 of the Health and Social Care Act 2012.

The law of negligence imposes a duty of care on providers of healthcare. This is a duty to take reasonable care and skill in the provision of treatment or other healthcare. For a health professional, what constitutes 'reasonable care and skill' will be determined by reference to professional standards. In the case of an NHS body or private organisation, it must take reasonable care to ensure a safe system of healthcare – using appropriately qualified and experienced staff.

Individual health professionals are also governed by the standards set under the professional regulatory regime that applies to their profession.

Under the Health and Social Care Act 2008 persons who carry on regulated activities in England, including NHS, private and voluntary providers, have to register with the CQC and meet a set of essential requirements of safety and quality.

Pledge: 'The NHS pledges to identify and share best practice in quality of care and treatments.'

All NHS organisations and local authorities work to improve the quality of the services they provide or commission, including by assessing clinical and service innovations relevant to their clinical responsibilities. 'High Quality Care For All' defines quality as having 3 dimensions: ensuring that:

- care is safe
- it is effective
- it provides patients with the most positive experience possible

These 3 dimensions of quality are being placed at the core of everything the NHS does – both as ends in themselves, but also because delivering the best quality of care will ultimately ensure that the system as a whole gives best value. This definition of quality has been reflected in legislation through the Health and Social Care Act 2012 (see new duties as to improvement in quality of services inserted into the NHS Act 2006 – sections 1A, 13E and 14R (as inserted by sections 2, 23, and 26 of the 2012 Act). Under section 3(1) of the Local Government Act 1999, local authorities are under a statutory duty to improve the way their functions are exercised having regard to the economy, efficiency and effectiveness. This duty affects the decisions local authorities make in commissioning and providing services, including public health services.

Individual clinical teams are already encouraged to participate in clinical audit, comparing their standards of care with current best practice. Furthermore, NHS England has a legal duty to have regard to the quality standards prepared by NICE. NICE Evidence Services provides access to quality-assured information on best practice in health and care. Local services' use of these products will be informed by local needs and priorities,

and the NHS will make information about quality performance more accessible through the continued publication of Quality Accounts.

Rights and pledges covering nationally approved treatments, drugs and programmes

Right: 'You have the right to drugs and treatments that have been recommended by NICE for use in the NHS, if your doctor says they are clinically appropriate for you.'

> The National Institute for Health and Care Excellence (NICE) (https://www.nice.org.uk/) is an independent organisation producing guidance on drugs and treatments.
>
> 'Recommended for use by NICE' refers to a type of NICE recommendation from a date no longer than 3 months from the publication of the recommendation unless, in certain limited circumstances, a longer period is specified. NICE provides national guidance to help those working in the NHS, local authorities and the wider community to deliver high quality care.

NICE technology appraisals and highly specialised technology assessments may lead to recommendations on the use of specific new and existing drugs or treatments within the health service. When a NICE technology appraisal or highly specialised technology assessment results in a recommendation for the use of a drug or treatment, the relevant health body must fund that drug or treatment for patients when it is clinically needed. The relevant health body may be a CCG, NHS England or a local authority depending on the service the drug or treatment supports.

In practice, this means that you have a right to receive that drug or treatment if NICE has recommended its use in a technology appraisal or a highly specialised technology assessment and your clinician says it is appropriate for you to receive it.

There may be a few cases where the usual 3-month period for compliance with the statutory duty to fund a particular recommendation is extended, usually for a limited period in order to allow the NHS to make arrangements for implementation. In those cases, the right applies once the extended period specified in the NICE recommendation has expired.

Source of the right

Regulations 7 and 8 of the National Institute for Health and Care Excellence (Constitution and Functions) and the Health and Social Care Information Centre (Functions) Regulations 2013 require compliance with NICE technology appraisal recommendations and highly specialised technology recommendations.

The regulations require that the relevant health body apply funding so as to ensure that a treatment covered by a prescribed NICE recommendation be made available within the 3-month period specified by NICE in the recommendation. Very occasionally, the period for funding may be extended, in which case, this will be notified in the NICE recommendation at the time of a publication and only after consultation with the relevant stakeholders.

Right: 'You have the right to expect local decisions on funding of other drugs and treatments to be made rationally following a proper consideration of the evidence. If the local NHS decides not to fund a drug or treatment you and your doctor feel would be right for you, they will explain that decision to you.'

The availability of some healthcare services is determined nationally – for example, under NICE's technology appraisal or highly specialised technology recommendations, where all CCGs, NHS England or local authorities have to fund the recommended drugs and treatments. There are also some services that are commissioned directly by NHS England, which will therefore take a national decision on their funding.

However, in most cases, decision-making on whether to fund a service or treatment is left to the local CCG or local authority. This is to enable CCGs and local authorities to commission services that best fit the needs of their local population. For such decision-making, it is important that the process is rational, transparent and fair. This right ensures that there is such a process.

If a CCG, a local authority or NHS England has decided that a treatment will not normally be funded, it needs to be able to consider whether to fund that treatment for an individual patient on an exceptional basis.

Source of the right

Part 7 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 places a requirement on CCGs and NHS England to have arrangements in place for making decisions and adopting policies on whether a particular drug or other treatment is made available for the people for whom they are responsible. NHS England and CCGs also have to publish information on those arrangements, and publish reasons for any funding policy or make such reasons available on request.

Administrative law requires that the decisions of NHS bodies and local authorities are rational, procedurally fair and within their powers.

In addition, decisions by the courts have made it clear that, although an NHS commissioner (which includes a local authority commissioning public health services) can have a policy not to fund a particular treatment (unless recommended in a NICE technology appraisal recommendation or highly specialised technology recommendation), it cannot have a blanket policy; therefore it must consider exceptional individual cases where funding should be provided.

Right: 'You have the right to receive the vaccinations that the Joint Committee on Vaccination and Immunisation recommends that you should receive under an NHS-provided national immunisation programme.'

> The Joint Committee on Vaccination and Immunisation (https://www.gov.uk/government/groups/joint-committee-on-vaccination-and-immunisation) (JCVI) is the national expert advisory body responsible for advising the Secretary of State for Health and Social Care on issues regarding vaccination and immunisation.

The JCVI gives different types of advice. The right applies where, following a request from the Secretary of State for Health and Social Care, the JCVI makes a recommendation to introduce a new national immunisation programme, or to make a change to an existing national immunisation programme.

Where the JCVI makes a recommendation of this sort, the Secretary of State will be obliged, so far as is reasonably practicable, to make arrangements in England to ensure that the national immunisation programme is implemented so that the people who meet the criteria in the recommendation have access to the vaccine via the NHS. In practice this means that, if you fall into a group that the JCVI recommends is vaccinated against a particular disease, you have the right, after allowing for a reasonable period of time to implement the programme, to be vaccinated against that disease free of charge on the NHS if you wish to receive the vaccination.

Source of the right

The Health Protection (Vaccination) Regulations 2009 place a duty on the Secretary of State to make the necessary arrangements to implement JCVI recommendations so far as is reasonably practicable, where those recommendations meet certain conditions.

The Secretary of State will be permitted reasonable time in which to introduce a national immunisation programme. Implementing a national campaign can be complicated to organise and the high-level implementation stage can take up to 2 years or more following a recommendation.

Pledge: 'The NHS commits to provide screening programmes as recommended by the UK National Screening Committee.'

> The UK National Screening Committee (https://www.gov.uk/government/groups/uk-national-screening-committee-uk-nsc) is the national advisory body that advises Ministers and the NHS on all aspects of screening. It makes recommendations on which screening programmes should or should not be introduced based on robust analysis against a set of internationally recognised criteria. Screening should only be introduced where there is evidence that it will be effective and do more good than harm.

Screening has the potential to save lives and reduces mortality and morbidity from cancer and other conditions in the population who appear healthy and have no symptoms, by detecting conditions at an earlier, more treatable stage. Each year approximately 11 million people in England are invited to participate in a screening programme. Examples include, cervical and breast screening for cancer, and screening newborns for hearing impairment.

Rights and pledges covering respect, consent and confidentiality

Right: 'You have the right to be treated with dignity and respect, in accordance with your human rights.'

The right to dignity includes a right not to be subjected to inhuman or degrading treatment. The right to respect includes the right to respect for private and family life.

This right has broad meaning, but for the NHS your care, where possible, should be provided in a way that enables you to be treated with dignity and respect.

Where appropriate your health professional must also follow the standards set by their own professional body and/or regulator.

Source of the right

The right to be treated with dignity and respect is derived from the rights conferred by the European Convention on Human Rights (https://www.echr.coe.int/Documents/Convention_ENG.pdf) (ECHR) as given effect in UK law by the Human Rights Act 1998. The ECHR is designed to protect human rights and fundamental freedoms.

It is unlawful for a public body to act incompatibly with those ECHR rights (section 6 of the Human Rights Act).

Individual health professionals are also governed by the standards set under the professional regulatory regime that applies to their profession.

Right: 'You have the right to be protected from abuse and neglect, and care and treatment that is degrading.'

People who use services must be protected from suffering any abuse or improper treatment, including degrading treatment or treatment which significantly disregards their needs. Abuse includes sexual offences, physical or psychological ill-treatment, neglect, theft, misuse or misappropriation of money or property. Care or treatment must not include unnecessary restraint, or be provided in a way that discriminates on grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

To achieve this all providers must have, and implement, robust systems and processes that make sure that people are protected. Staff should be aware of their individual responsibilities to prevent, identify and report abuse when providing care and treatment.

Providers must act as soon as they are alerted to suspected, alleged or actual abuse, or the risk of abuse.

If a patient makes allegations of abuse, they must receive the support they need and where allegations of abuse are substantiated, providers must act to redress the abuse and take the necessary steps to ensure the abuse is not repeated.

Source of the right

This right is based on the fundamental standard requiring providers registered with the CQC to protect people from abuse and improper treatment set out in regulation 13 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. The fundamental standards are legal requirements that NHS Hospitals, NHS Foundation Trusts, GP Practices, Ambulance services, and other providers of NHS services must meet. Patients should always be treated in line with the fundamental standards. If this is not happening, then the organisation is not meeting its legal duties, and CQC can take action against the provider.

Right: 'You have the right to accept or refuse treatment that is offered to you, and not to be given any physical examination or treatment unless you have given valid consent. If you do not have the capacity to do so, consent must be obtained from a person legally able to act on your behalf, or the treatment must be in your best interest.'

If you are detained in hospital or in the community, for example, on a Community Treatment Order, under the Mental Health Act 1983, different rules may apply to treatment for your mental disorder. These rules will be explained to you at the time. They may mean that you can be given treatment for your mental disorder even though you do not consent.

Except in the limited circumstances explained here, no one can carry out any physical examination or give you treatment unless you have given your valid consent. Although clinicians will have good reasons for examination or treatment, which they should be able to explain to you, you can accept or refuse the examination or treatment if you wish.

If you lack capacity to consent and have given a person legal authority to make treatment decisions for you (under a health and welfare lasting power of attorney), then they can consent to or refuse treatment on your behalf where this would be in your best interests. A health and welfare deputy appointed by the Court of Protection can also usually make these decisions.

If you lack capacity to consent and there is no such person, then someone else, for example, a doctor, will have to act in your best interest. Doctors and all other health professionals must follow the Mental Capacity Act 2005 when they make decisions in your best interests; they must, for example, consult with family members and other interested people where possible. For serious medical treatment decisions, if there is no family member appropriate to consult, they must consult an independent mental capacity advocate, who will support and represent you. In some difficult cases the courts will be asked to decide what is in a person's best interests.

Source of the right

The law relating to battery and assault makes it generally unlawful for a person to be given a physical examination or treatment unless they have given valid consent. Regulation 11 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 also requires that care and treatment must only be provided with consent

If, even with support to make the decision, a person does not have the capacity to consent for example because of their mental state, or because they are a child with insufficient understanding to give consent, treatment may take place without the consent of the individual concerned. In such cases, treatment may be consented to by another individual – for example, the parent of a child, or a health and welfare attorney or deputy, who has authority to make such decisions by making a best interests decision under the Mental Capacity Act 2005. In other cases, treatment must also be in the best interests of the patient and in some cases, the NHS must apply to the court for a declaration that a particular treatment is in a person's best interests).

Further detail about mental capacity and what happens when you cannot give consent yourself can be found in the Mental Capacity Act 2005 and its associated Code of Practice (https://www.gov.uk/government/publications/mental-capacity-act-code-of-practice). For children who are unable to consent to or refuse treatment because they lack sufficient understanding (that is, they are not 'Gillick competent (https://www.nhs.uk/conditions/consent-to-treatment/children/)') parents may consent or refuse treatment where this would be in the child's best interests. Again, in some difficult cases the courts will be asked to determine what is in a child's best interests.

If a person does not have the relevant capacity to consent to their treatment arrangements that amount to a deprivation of liberty, but those arrangements are necessary to enable care or treatment to be given, then proper legal authority is required in line with the person's rights under Article 5 of the European Convention on Human Rights. Currently this is done under the Deprivation of Liberty Safeguards, or in some cases by the Court of Protection. The Government is preparing to replace the Deprivation of Liberty Safeguard system with the Liberty Protection Safeguards shortly.

Individual health professionals are also governed by the standards set under the professional regulatory regime that applies to their profession.

Right: 'You have the right to be given information about the test and treatment options available to you, what they involve and their risks and benefits.'

When you are deciding whether to give your consent, this right entitles you to have the information you need to decide. The information you are given should include both the benefits and the risks of the suggested treatment, as well as the risks of not having the treatment.

Information about your options, and your treatment, is an important part of your care and you should be easy to understand, clear, accurate, impartial, balanced, evidence-based, and up-to-date.

Source of the right

If no information is provided or the information is insufficient, the patient may not have given informed consent and treatment may amount to assault. Under the law of negligence, a health professional may breach their duty of care to their patient if they fail to provide them with sufficient information in advance of treatment to ensure valid consent. If the patient suffers harm as a result, they are entitled to bring a claim for damages. Regulation 9 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (person centred care) also requires those enabling and supporting patients to understand the care or treatment choices available to them and to discuss with a competent person the balance of risks and benefits.

Individual health professionals are also governed by the standards set under

the professional regulatory regime that applies to their profession.

Right: 'You have the right of access to your own health records and to have any factual inaccuracies corrected.'

You have the right to see your health records and since 2016, your GP has been able to give you electronic access to your own GP records, with the view that in due course, that you will be able to access online your own records across health and care services (Personalised Health and Care 2020: a framework for action (https://www.gov.uk/government/publications/personalised-health-and-care-2020)). If for any reason you do not have access you can ask your health professional in writing to see them.

There are limited exceptions to the right to see your health records. The main one is that information may be withheld where it includes details about a family member or another person and it is not clear whether you already have this information. Information in your records can also be withheld if it may be put you at serious personal risk, for example where a very serious mental illness means that having the information would put you at risk of harming yourself.

You have the right to have any factual inaccuracies in your health record corrected. You can ask your health professional to amend your record if you think this is the case. There are limited exceptions to this right. In particular, there is no obligation to amend something in your record that is a professional opinion. In addition, where you and your health professional cannot agree on the accuracy of information in your record, you can ask that a statement is added to make clear that you dispute it.

Source of the right

The legal right of access to your own health records and other information an organisation holds about you is a requirement of article 15 of the UKGeneral Data Protection Regulation (GDPR). This right is not an absolute right but the circumstances in which information may be withheld are limited and where some information is withheld, you should still be given access to the rest. Circumstances where the right is restricted are set out in Schedule 2 to the Data Protection Act 2018.

Right: 'You have the right to privacy and confidentiality and to expect the NHS to keep your confidential information safe and secure.'

NHS staff have both a professional and legal duty to keep information you provide to them confidential and to respect your privacy. This does not mean that your information will not be shared, but it does mean that it will only be shared with your agreement (consent) or if there is another legal basis. An example of another legal basis is that information about certain diseases must be shared with public health staff.

Source of the right

Common law imposes a duty of confidentiality on individuals or bodies that receive or hold health information about a patient in the course of treatment or when otherwise seeking clinical assistance.

The duty requires that information held in confidence is only disclosed to a third party when:

- the person that the information is about has consented
- there is another basis in law for disclosure
- there is an overriding public interest in disclosure, where the public interest that would be served by disclosure outweighs the public good of maintaining public trust in the NHS as a confidential service and an individual's right to confidentiality

The Data Protection Act 2018 and the UK GDPR provide additional safeguards by requiring those who hold personal information to comply with various 'Data Protection principles'. These include ensuring that information is held securely with appropriate technical and organisational measures to prevent unauthorised or unlawful use.

A right to privacy, for both individual and family life, is provided under Article 8 of the European Convention on Human Rights. This has been adopted in UK law through the Human Rights Act 1998. Article 8 establishes a right to respect for private and family life, which encompasses the disclosure of personal information.

Regulations under the NHS Act 2006 governing the provision of GP and other primary care services require providers to comply with specified requirements concerning confidentiality.

Individual health professionals are also governed by the standards set under the professional regulatory regime that applies to their profession.

Right: ‘You have the right to be informed about how your information is used.’

You have a right to know how information that identifies you and is collected about you as part of your care is used for other purposes, such as for research or for NHS management purposes.

Source of the right

Legal rights to be informed about how your information is used are requirements of the UK GDPR. The 7 key principles at the heart of data protection law are set out at Article 5 of the UK GDPR. These include a positive obligation to deal with personal information fairly and lawfully, as well as that it should be relevant and limited to what is necessary in relation to the

purpose for which it is collected.

The UK GDPR creates a positive obligation on organisations to provide individuals with information about the fact that they hold their personal data, the purposes for which their personal information will be used and anything else that a reasonable person might expect to know in the circumstances. This is known as the 'duty of transparency'.

There are some limited circumstances where information may be withheld. Examples include where someone is under investigation by the police and informing them of this would undermine the purpose of the investigation, or to protect public or national security. The exemptions are set out in Schedule 2 to the Data Protection Act 2018.

Under the common law duty of confidentiality, you have a right to be informed about how your confidential information is to be used as part of the process of obtaining your consent for its use. In relation to the use of your information to support your care, consent is implied as part of you consenting to be examined and receive treatment. It is therefore important that you understand which staff could have access to your information, or if caring for you involves sharing information with other teams and organisations. You can ask for information at any time and this should be provided to you unless there is an exemption that applies. Where consent is required for the use of data, sufficient information about how it will be used will need to be provided to enable an informed decision to be made.

All uses of personal data and confidential information must have a legal basis, and being informed of the legal basis is part of the right to be informed.

Right: ‘You have the right to request that your confidential information is not used beyond your own care and treatment and to have your objections considered, and where your wishes cannot be followed, to be told the reasons including the legal basis.’

You can request that your confidential data is not used for reasons other than your direct care if you wish. The national data opt-out has been introduced to give you an easy and accessible way of controlling how your data is being used. NHS staff should respect your decision – but if there are legal or other reasons why they cannot act in accordance with you wishes they must explain them to you.

Where consent is the legal basis for processing your data, you have the right to choose to give or refuse this consent. You also have the right to change your mind – so you could either give or withdraw your consent after your initial decision. Where you withdraw your consent, this will apply to continuing and future uses of the information that your consent related to. The NHS will do its best to take account of your wishes in relation to other uses of your information and previous uses of it, but in relation to previous

uses it may not be practicable to remove your data entirely from use though it may be possible to anonymise it.

Source of the right

The right to have your objections considered (and your wishes respected unless there is a reason, and to be informed of that reason, including the legal basis), is derived from common law and the Human Rights Act, which requires that interference with your privacy is necessary and proportionate, and is reflected in the national data opt-out.

There are also enhanced rights to prevent, block or erase the processing of your personal data under the UK GDPR (Article 18). You can restrict processing of your personal data in different circumstances. For example, where you believe the data is not accurate or the processing is unlawful. When they do, all an organisation will be allowed to do is store it.

All uses of personal data and confidential information must have a legal basis, and being informed of the legal basis is part of the right to be informed.

Pledge: 'The NHS pledges to ensure those involved in your care and treatment have access to your health information so they can care for you safely and effectively.'

This pledge is intended to encourage better communication between organisations and staff to support the care of individual patients, and as a result to improve the safety and effectiveness of their care. Where the purpose is to support your care, information about you will only be shared with your consent and in general, this consent will be implied as part of the consent you give to be referred to other services but you should be informed about this.

If you do not want information about you shared, you should discuss this with your clinician. It is important that you understand that inability to share your information with other NHS services you may use could compromise the quality of care the NHS is able to provide you with.

Pledge: 'The NHS pledges that if you are admitted to hospital, you will not have to share sleeping accommodation with patients of the opposite sex, except where appropriate, in line with details set out in the handbook to the NHS Constitution.'

Providers of NHS-funded care are expected to eliminate mixed-sex accommodation except where it is in the best overall interest of the patient involved, or reflects their personal choice.

This means that patients should not have to share sleeping accommodation with others of the opposite sex and should also have access to segregated bathroom and toilet facilities. Patients should not have to pass through

opposite-sex areas to reach their own facilities. Women in mental health units should have access to women-only day spaces.

Sleeping accommodation includes areas where patients are admitted and cared for on beds or trolleys, even when they do not stay in hospital overnight. It therefore includes all admissions and assessment units (including all clinical decision units), plus day surgery and endoscopy. It does not include areas where patients have not been admitted, such as accident and emergency cubicles.

Single-sex accommodation can be provided in:

- single-sex wards (this means the whole ward is occupied by men or women but not both)
- single rooms with adjacent single-sex toilet and washing facilities (preferably en-suite)
- single-sex accommodation within mixed wards (for instance, bays or rooms that accommodate either men or women, not both; with designated single-sex toilet and washing facilities preferably within or adjacent to the bay or room)

Pledge: 'The NHS pledges to anonymise the information collected during the course of your treatment and use it to support research and improve care for others.'

This pledge is intended to protect your privacy and confidentiality while enabling the NHS to use information collected or generated during the provision of care to improve the care, treatment and services for everyone. This uses a variety of sources including: clinical audit, population needs assessment and research. Information that has been anonymised is no longer regarded as personal data and therefore the same restrictions of needing consent or another legal basis, such as the UK GDPR or Data Protection Act 2018, to use the information no longer apply.

Pledge: 'The NHS pledges where identifiable information has to be used, to give you the chance to object wherever possible.'

This pledge acknowledges that in some instances it is not possible to use anonymised information. Where this is the case, a legal basis is needed to use identifiable information. This may be through consent, in which case you can either give or refuse to give your consent. Often, however, a legal basis other than consent will be used. This may be either set out in statute or common law.

Pledge: 'The NHS pledges to inform you of research studies in which you may be eligible to participate.'

This pledge aims to give you better access to the potential benefits of participating in research studies, including clinical trials. Information that identifies you will not be given to researchers unless you have given your consent for this, or the research has been given approval under the Health Service (Control of Patient Information) Regulations 2002.

If you have a registered national data-opt out, you may still be asked by a member of your clinical team to participate in a clinical trial or research project but have the right to refuse to participate.

Pledge: 'The NHS pledges to share with you any correspondence sent between clinicians about your care.'

The relationship between patient and clinician works best when it is based on trust, openness and understanding. Sharing correspondence in this way helps patients to be better informed about their condition and what they need for effective care, and helps them to play their part by taking greater responsibility for their own health and making decisions about their treatment. It is also an opportunity for them to see what has been written, and support accuracy of their medical record by correct any errors.

If not already provided, patients can ask for and should be given copies of letters and other correspondence about their care. This includes letters on referral, letters following outpatient appointments and discharge letters that are sent routinely between clinicians as part of patient care.

Rights and pledges covering informed choice

Right: 'You have the right to choose your GP practice, and to be accepted by that practice unless there are reasonable grounds to refuse, in which case you will be informed of those reasons.'

You can choose which GP practice you would like to register with. That GP practice should accept you onto its list of NHS patients unless there are good grounds for not doing so, for instance because you live outside the boundaries that it has agreed with NHS England or because they have approval to close their list to new patients.

In rare circumstances, the GP practice may decide not to accept you if there has been a breakdown in the doctor-patient relationship or because you have behaved violently at the practice. If a GP practice does not accept you onto its list, it should tell you why. If for any reason you are unable to register with your preferred GP practice, NHS England will help you to find another one.

Source of the right

The right is derived from the duties imposed on the provider of GP services by regulations made under the NHS Act 2006, in particular paragraphs 18 to 21 of Schedule 3 to the National Health Service (General Medical Services Contracts) Regulations 2015 and paragraphs 17 to 20 of Schedule 2 to the National Health Service (Personal Medical Services Agreements) Regulations 2015.

Right: 'You have the right to express a preference for using a particular doctor within your GP practice, and for the practice to try to comply.'

Within your GP practice, you have the right to say which particular GP you would like to see. Your GP practice will try to accommodate your choice wherever possible although there may be reasons it cannot do so.

Source of the right

The right is set out in the regulations made under the NHS Act 2006, which underpin the contractual arrangements for the providers of GP services – in particular paragraph 22 of Schedule 3 to the National Health Service (General Medical Services Contracts) Regulations 2015 and paragraph 21 of Schedule 2 to the National Health Service (Personal Medical Services Agreements) Regulations 2015.

Right: 'You have the right to transparent, accessible and comparable data on the quality of local healthcare providers, and on outcomes, as compared to others nationally.'

You have the right to access clear and comparable accessible data about the organisations that provide your care, which will help you to make informed choices about care, and as well as supporting the NHS to improve.

Registered providers that have received a quality rating from the CQC are required to display the rating awarded in all premises where a regulated activity is being delivered, and in their main place of business. This includes community premises and other locations, which might not necessarily be registered with CQC (for example premises from which they provide occasional clinics). This is part of the information published in various places, including: the Quality Accounts published annually by providers, CQC's website (https://www.cqc.org.uk/) and the NHS website (http://www.nhs.uk).

Source of the right

Registered providers that have received a quality rating from CQC are required to display the rating awarded under regulation 20A of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (http://www.cqc.org.uk/content/regulation-20a-requirement-display-performance-assessments).

Right: 'You have the right to make choices about the services

commissioned by NHS bodies and to information to support these choices. The options available to you will develop over time and depend on your individual needs.'

If you are referred for consultant-led treatment (in the case of mental health referral, this can be a referral to a named mental health professional rather than a consultant), you have the right to choose which provider (and the team within that provider) you are referred to from all those who have a contract to provide the service. There are certain exceptions including for:

- persons detained under the Mental Health Act 1983
- serving members of the armed forces
- persons detained in, or on temporary release from, prison or detained in other prescribed accommodation (for example, a court, secure children's home, secure training centre, an immigration removal centre and a young offender institution)

Some services are also excluded from this right:

- where speed of access to diagnosis and treatment is particularly important, for example emergency attendances and admissions
- attendances at a rapid access chest pain clinic under the 2-week maximum waiting time
- attendance at cancer services under the 2-week maximum waiting time
- maternity services
- public health services commissioned by local authorities (although local authorities should offer a choice as a matter of good practice whenever it is appropriate)

Your rights to choice are set out in the Choice Framework (https://www.gov.uk/government/publications/the-nhs-choice-framework)). You have a right to be provided with information wherever there is a legal right to choice. Currently, this includes information to support you in choosing your provider when you are referred for your first outpatient appointment with a service led by a consultant. In the case of mental health referrals, a right to information applies if you are referred to a service led by a named healthcare professional and/or consultant.

Information to help you make your choice can be found on the NHS website (http://www.nhs.uk). CCGs are expected to promote this information and make it more accessible to patients.

Source of the right

Part 8 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) (Amendment) Regulations 2013.

Pledge: 'The NHS pledges to inform you about the healthcare services available to you locally and nationally'

Pledge: 'The NHS commits to offer you easily accessible, reliable and relevant information in a form you can understand, and support to use it. This will enable you to participate fully in your own healthcare decisions and to support you in making choices. This will include information on the range and quality of clinical services where there is robust and accurate information available'

Providing information to support choice is a major priority for the NHS: everyone should be given the opportunity to make informed decisions about their care, and for this to happen, information should be given in a form appropriate to your mental capacity and clinical needs. It should be shared with families and carers if you wish.

Consideration should be given to enabling children and young people to participate in decision making about their care and treatment with their families and carers should they wish to.

Important information includes:

- information and advice on the NHS website (http://www.nhs.uk). This includes information on medical and mental health conditions, on managing long term conditions such as asthma and diabetes, on available treatments and services and how to access services, on choice, and on healthy lifestyle
- information about how NHS services are performing, published by the CQC (https://www.cqc.org.uk/publications)
- information about how local authorities are performing on improving public health, published by Public Health England (http://www.localhealth.org.uk/#v=map15;sly=wd18_DR;l=en;sid=6997)
- information provided by local Healthwatch organisations (https://www.healthwatch.co.uk/find-local-healthwatch) who can offer, or signpost you to, information about access and choice in relation to local services and on making complaints

The NHS will design every digital tool and service around the needs of those using it; whether the public, clinicians or other support staff. NHS digital tools aim to meet the needs of people in different phases of their healthcare journey and at different stages of their life; for example managing long-term conditions, booking appointments for children, or clinicians in consultations with patients. 'The future of healthcare' (https://www.gov.uk/government/publications/the-future-of-healthcare-our-vision-for-digital-data-and-technology-in-health-and-care) commits to this way of working as services designed around users and their needs:

- are more likely to be used
- help people get the right outcome for them
- cost less to operate by reducing time and money spent on resolving problems

You can expect the relevant NHS data to be available through secure open application programme interfaces (APIs), so that when your needs are not met by existing tools and services you can create your own software, if you choose to. For example, you could create software to access publicly available data, such as on waiting times, spending and immunisation. All data will be available in an open standard and all APIs will be documented. You will only be able to access your personal data with the appropriate permission. You will not be able to see anyone else's records. For example, you could create an app to remind you which medication you have been personally prescribed and how often you should take it. You would be responsible for any personal data you build into a new app.

Rights and pledges covering involvement in your healthcare and the NHS

Right: 'You have the right to be involved in planning and making decisions about your health and care with your care provider or providers, including your end of life care, and to be given information and support to enable you to do this. Where appropriate, this right includes your family and carers. This includes being given the chance to manage your own care and treatment, if appropriate.'

This right is about providing you with the opportunity to help plan and make decisions about your care and treatment wherever it is appropriate. You should be involved as much as you want to be in discussing your needs and preferences, and you should be given the information you need to understand the choices available to you, as well as the risks and benefits involved. You will be listened to and treated as an individual. It may not be possible to offer you the chance to manage your own care and treatment in certain circumstances, for example if you are unconscious.

For adults who are eligible for NHS Continuing Healthcare (https://www.nhs.uk/conditions/social-care-and-support-guide/money-work-and-benefits/nhs-continuing-healthcare/), and children eligible for NHS Continuing Care, this right includes the option of having a personal health budget. A personal health budget is an amount of money and a personalised care and support plan to support your identified health and wellbeing needs, planned and agreed between you and your local NHS team. The aim is to give people with ongoing healthcare needs and disabilities greater choice and control over the healthcare and

support they receive.

Personalised health and care means empowering people to have greater choice and control over the way their health and care is delivered. Involving people in their own health and care not only adds value to people's lives, it creates value for the taxpayer. It is central towards the shift towards more personalised care – from 'what is the matter with you' to 'what matters to you?'.

Source of the right

This right is based on the new fundamental standard about personalised care, and reflects the fact that care providers registered with CQC should collaborate with patients to develop an assessment of their needs and preferences, enable and support them to make decisions about their care, and provide opportunities for patients to manage their own care and treatment if they want to do that as set out in regulation 9 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

The right of people who are eligible for NHS Continuing Healthcare and continuing care for children to have personal health budgets comes from Part 6A of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) (Amendments) Regulations 2013.

GP services are provided under arrangements made by NHS England. Those arrangements must comply with requirements set out in regulations made under the NHS Act 2006. In particular, the relevant regulations define the core ‘essential services’ that providers must or may provide, as services for patients ‘delivered in the manner determined by the practice in discussion with the patient’ (regulation 15 of the National Health Service (General Medical Services Contracts) Regulations 2004).

In addition GPs and other doctors registered with the General Medical Council have a duty to work in partnership with patients, which must include listening to patients and responding to their concerns and preferences, and giving patients the information they want or need in a way they can understand (in line with the General Medical Council's guidance: Good Medical Practice and Consent: patients and doctors making decisions together (https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/consent)). Other health professionals are also governed by the standards set under the professional regulatory regime that applies to their profession.

Health professionals must comply with common law requirements relating to informed consent. NHS England and CCGs have a duty to promote the involvement of patients, their carers and representatives, in decisions, which relate to the prevention and diagnosis of illness in the patients, or their care or treatment (sections 13H and 14U of the NHS Act 2006).

Right: 'You have the right to an open and transparent relationship with the organisation providing your care. You must be told about any safety incident relating to your care which, in the opinion of a healthcare professional, has caused, or could still cause, significant harm or death. You must be given the facts, an apology, and any reasonable support you need.'

This right is to ensure that providers are open and transparent with you, and/or with other relevant people who may be acting lawfully on your behalf in relation to your care and treatment. It also sets out some specific requirements that providers must follow when things go wrong with care and treatment. This includes informing you about the incident, providing truthful information and an apology when things go wrong.

Providers must also give all reasonable support necessary to help you overcome the physical, psychological and emotional impact of the incident. You must be treated with dignity and respect and should be shown empathy at all times.

Source of the right

The legal obligation on providers registered with the CQC to act in an open and transparent way with patients and their families is set out in regulation 20 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. Providers registered with the CQC must inform patients about 'notifiable safety incidents', apologise and offer reasonable support.

Right: 'You have the right to be involved, directly or through representatives, in the planning of healthcare services commissioned by NHS bodies, the development and consideration of proposals for changes, in the way those services are provided, and in decisions to be made affecting the operation of those services.'

You have the right to have your say in person or through a representative:

- in the planning of healthcare services commissioned by NHS England and CCGs
- on the proposals for any changes in the way in which those services are provided
- on decisions which may affect the operation of those services

This right applies if implementation of a proposal or decision would have an impact on:

- the manner in which services are delivered to you or other people
- the range of health services available to you or other people

Source of the right

NHS bodies have duties to make arrangements with a view to securing such public involvement in relation to the services for which they are responsible under section 13Q, 14Z2 and 242 of the NHS Act 2006.

Pledge: 'The NHS pledges to provide you with the information and support you need to influence and scrutinise the planning and delivery of NHS services.'

In addition to the duty of CCGs and NHS England to involve their local populations in decisions about the planning and delivery of NHS services in their area, there are a number of policy commitments. Providing accurate and relevant information to support public involvement is an essential element of this.

CCGs and local authorities have a statutory obligation to carry out a joint strategic needs assessment and to agree a joint health and wellbeing strategy, through the health and wellbeing board. Engaging patients, their carers and families, and the broader community in developing the Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy process is an important way to involve them in decisions about planning and delivery of NHS services in their area.

Local Healthwatch organisations are local consumer champions for health and social care. One of their roles is to gather and represent the views of the community about their experiences of health and care services in the local area. They have a statutory seat on each health and wellbeing board, alongside CCGs and local area teams of NHS England.

In addition, independent assessments of service quality from the CQC can be used by all involved in planning, influencing and scrutinising NHS services.

Pledge: 'The NHS pledges to work in partnership with you, your family, carers and representatives.'

Working in partnership with you as an individual patient is at the heart of the NHS. When taking decisions about your health and treatment, you should receive support so that you feel able to make informed choices, including information about the available options and the risks and benefits associated with each option. A good example of this is the e-referral service which enables you and your clinician to decide together where you will be referred for hospital treatment if you need it.

Another way you can be more involved in the care you receive is through personalisation and shared decision making. Personalisation, and involving people in decisions about their health and care through shared-decision making, can improve health and wellbeing, improve quality of care and ensure people make informed use of available healthcare resources. One

way of receiving a more personalised approach to your health and care is through a personal health budget. Adults who are eligible for NHS Continuing Healthcare and children and young people eligible for Continuing Care have a right to have a personal health budget.

The Information Strategy (https://www.gov.uk/government/publications/giving-people-control-of-the-health-and-care-information-they-need) explains the benefits of information to health and wellbeing. For example, we can use information to understand how to improve our own and our family's health, to know what our care and treatment choices are and to assess for ourselves the quality of services and support available. Better use of information and innovative technology can help professional teams to prioritise more face-to-face support where that is needed, and can also enable local areas to design integrated health and care services, and improvement strategies that reflect local need.

Working in partnership with your family, carers and representatives

The NHS also prioritises working with your family, carers and representatives wherever this is appropriate. For example, 'Recognised, valued and supported: next steps for the carers strategy' (https://www.gov.uk/government/publications/recognised-valued-and-supported-next-steps-for-the-carers-strategy) (2010) includes a number of key commitments on involving carers in care and discharge planning and on ensuring their own needs are met. It identifies 4 priority areas:

- supporting those with caring responsibilities to identify themselves as carers at an early stage, recognising the value of their contribution and involving them from the outset both in designing local care provision and in planning individual care packages
- enabling those with caring responsibilities to fulfil their educational and employment potential
- personalised support both for carers and those they support, enabling them to have a family and community life
- supporting carers to remain mentally and physically well

Pledge: The NHS pledges to involve you in discussions about planning your care and to offer you a written record of what is agreed if you want one.'

Care planning discussions are generally led by your main health or care professional, which could be your local GP or your hospital doctor. But it may be someone else - for example your community pharmacist following a medicines use review or a healthy lifestyle discussion.

If you have a long-term condition, the aim is to identify how your condition is impacting on the things that are important to you. A care planning discussion can help to identify your personal goals and decide how the health and care

system can support you in achieving them. It can include your wishes around end of life care if this is relevant or appropriate to you (the government's End of Life Care Strategy (https://www.gov.uk/government/publications/end-of-life-care-strategy-promoting-high-quality-care-for-adults-at-the-end-of-their-life) (2008) set out a number of measures to ensure that a person's needs at the end of life are met which include recording and sharing information with your agreement about your needs, wishes and preferences). The discussion can also explore the extent to which you are able to self-care (or do things for yourself), the availability of local support groups and the most convenient way for you to access further information if you need it. The discussion gives you more control over the care and support you receive, taking account of what is most important to you, and helps you to avoid the need for emergency treatment or admission to hospital. The NHS has developed a range of Patient Decision Aids to support these discussions which are designed to help you weigh up different options and are especially useful where the options are difficult.

The outcome of the discussion about your care will usually be recorded. This can be in the form of a care plan, health plan, support plan, self-management plan or an information prescription. For some people the plan will be very detailed, but for others it might be very simple. Sometimes you may not want or need a plan but might just want what you have agreed recorded in your health record. The important thing is that you know you have a plan, wherever it is recorded, and that you are happy with what has been agreed in it.

Pledge: 'The NHS pledges to encourage and welcome feedback on your healthcare and care experiences and use this to improve services.'

Only by listening and responding to your views and experiences, and those of your family and carers, will the NHS know that it is delivering high quality care in the eyes of patients and the public. There are a variety of different methods that the NHS uses to capture your feedback. The feedback is then used by the NHS to improve in areas that patients say matter most to them, or to celebrate where things are going well, so do please be honest and open about your experiences when providing feedback.

The Friends and Family Test is one way in which you can give feedback on your experiences of using the NHS. It asks if you would recommend a service you have used to your friends and family should they need similar care or treatment. The results of the test are published monthly on the NHS website (http://www.nhs.uk).

Local Healthwatch gives people and communities a stronger voice to influence and challenge how health and social care services are provided within their area. Local Healthwatch enables you to share your views and concerns about local health and social care services to help build a picture of where services are doing well and where they can be improved. It shares

these views with local authorities, CCGs and NHS England to help plan local health and care services. Where feedback provided to Local Healthwatch suggests a concern about a specific service provider, it will also alert Healthwatch England and the CQC.

Rights and pledges covering complaints and redress

Right: 'You have the right to have any complaint you make about NHS services acknowledged within 3 working days and to have it properly investigated.'

If you are unhappy with a NHS service and decide to make a complaint, you have the right to have that complaint acknowledged by the organisation receiving the complaint within 3 working days (this does not include weekends and bank holidays). You also have the right for that complaint to be investigated properly.

Source of the right

The right is derived from the legislation governing the NHS complaints procedure, which sets out various obligations on NHS bodies, local authorities, GPs and other primary care providers, and voluntary sector providers of NHS care. Relevant provisions are the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and Part 5 of the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012.

Right: 'You have the right to discuss the manner in which the complaint is to be handled, and to know the period within which the investigation is likely to be completed and the response sent.'

If you make a complaint, you have the right to be offered a discussion about the way in which the complaint is to be handled and the time it is likely to take to investigate the complaint and to send you a response.

Source of the right

The regulations governing the NHS complaints procedures impose a duty on NHS bodies to discuss with you the manner in which the complaint is to be handled, the period in which the investigation into the complaint is likely to be completed and the response is likely to be sent to you. Relevant provisions are regulation 13 of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, and Part 5 of the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012.

Right: 'You have the right to be kept informed of progress and to know the outcome of any investigation into your complaint, including an explanation of the conclusions and confirmation that any action needed in consequence of the complaint has been taken or is proposed to be taken.'

If you make a complaint, you have the right to be kept informed of how the investigation into that complaint is progressing. When the investigation is completed, you have the right to be told the outcome; this will include an explanation of the conclusions reached and what action has been taken (or will be taken) as a result.

Source of the right

The regulations governing the NHS complaints procedures impose a duty on NHS bodies to keep you informed of the progress, as far as reasonably practicable, of your complaint. After completing the investigation, the body must send a written response to the complainant that explains how the complaint has been considered, and the conclusions reached in relation to the complaint. If the body is satisfied that any action is needed following the complaint, it must confirm whether this action has been taken or is proposed to be taken.

Relevant provisions are regulation 14 of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and regulation 29 of the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012.

Right: 'You have the right to take your complaint to the independent Parliamentary and Health Service Ombudsman or Local Government Ombudsman, if you are not satisfied with the way your complaint has been dealt with by the NHS.'

If you are not happy with the outcome of your complaint, you can take your complaint to the Parliamentary and Health Service Ombudsman (http://www.ombudsman.org.uk) (or in the case of a complaint about a public health services, to the Local Government Ombudsman (http://www.lgo.org.uk)), who carries out independent investigations into complaints about unfair or improper action or poor service by the NHS in England.

The Ombudsman will generally only investigate your complaint if you have already invoked and exhausted the NHS or public health complaints procedures, unless there are circumstances that make it unreasonable for you to do so.

Source of the right

This right is derived from the Health Service Commissioners Act 1993 and the Local Government Act 1974.

Right: 'You have the right to make a claim for judicial review if you think you have been directly affected by an unlawful act or decision of an NHS body or local authority.'

Judicial review is a process to challenge a decision of the Secretary of State, an NHS body or local authority, on the basis that it is unlawful. Judicial review is not a form of appeal and is concerned primarily with how decisions are made, rather than the merits of the decision itself.

To be entitled to bring a claim for judicial review, you would need to have a direct, personal interest in the action or decision under challenge. If it is something you want to do, you should seek legal advice and need to be aware that there are time limits for bringing a claim.

Source of the right

This right is derived from administrative law.

Right: 'You have the right to compensation where you have been harmed by negligent treatment.'

If you have been harmed through negligent treatment, you have a right to claim for damages. If this is something you want to do, you should seek legal advice.

Source of the right

This right is derived from law on negligence.

Individual health professionals are also governed by standards set under the professional regulatory regime that applies to their profession.

Pledge: 'The NHS commits to ensure that you are treated with courtesy and you receive appropriate support throughout the handling of a complaint, and that the fact you have complained will not adversely affect your future treatment'

Pledge: 'The NHS commits to ensure that when mistakes happen or if you are harmed while receiving healthcare, you receive an appropriate apology, delivered with sensitivity and recognition of the trauma you have experienced, and know that lessons will be learned to help avoid a similar incident occurring again'

Pledge: 'The NHS commits to ensure that the organisation learns lessons from complaints and claims and uses these to improve NHS services'

If you make a complaint about NHS services or public health services commissioned by your local authority, the emphasis should be on seeking to

resolve the complaint to your satisfaction, and to learn lessons from it to prevent similar situations occurring again.

Although making a complaint to the organisation that provided the service is one way of enabling an organisation to learn lessons from its mistakes and to prevent them happening to anyone else, if you prefer you may complain to the body that commissions those services – your local CCG, local authority (for public health services) or NHS England. Commissioners of NHS services have an important role in ensuring that all organisations providing these services have a fair and effective complaints process. If it proves not to be possible to resolve your complaint locally, you have the right to ask the Parliamentary and Health Service Ombudsman or the Local Government Ombudsman to investigate your case.

While the CQC does not have a role in handling individual complaints, it does use information from people who use services in its assessment of whether registered NHS providers are meeting the registration requirements. This includes a requirement to have effective systems in place for handling complaints, and for learning from complaints. The CQC has enforcement powers it can use if providers fail to meet this requirement.

These pledges are consistent with the Principles of Good Administration, Principles of Good Complaint Handling and Principles for Remedy, published by the Parliamentary and Health Service Ombudsman, which the Department of Health and Social Care fully endorses. These documents are available from the Parliamentary and Health Service Ombudsman's website (http://www.ombudsman.org.uk).

Patient and public responsibilities

Why patient and public responsibilities matter

The constitution sets out that the NHS belongs to all of us, and that there are things that we can all do for ourselves and for one another to make it work effectively, and to ensure resources are used responsibly.

This means doing everything we can to keep ourselves and our families healthy and to reduce our risks of developing the avoidable long-term conditions that not only stop us living a full and active life, but place extra demands on the NHS, reducing its ability to provide vital and life-saving support to others.

It also means that when we do need help from the NHS, we should use its services responsibly – for example by visiting our local pharmacy instead of taking up an appointment with our GP for simple illnesses such as coughs and colds that can be safely treated with over the counter medicines. Calling an ambulance is the right thing to do when someone's life is in danger and visiting an Accident and Emergency Department is appropriate for problems that are both serious and urgent. But when we do not need immediate help from a hospital, we should be visiting our GP practice and other health professionals including community pharmacists, calling NHS 111 or visiting the NHS website (http://www.nhs.uk).

The NHS website gives information on how to stay well and use NHS services responsibly, and you can call NHS 111 for free at any time to speak to a fully trained adviser. The adviser will ask questions to assess your symptoms and, depending on the situation, will then:

- give you self-care advice
- connect you to a clinician or arrange for a call-back from a clinician
- book you a face-to-face appointment where possible
- send an ambulance directly, if necessary
- direct you to the local service that can help you best with your concern

The patient and public responsibilities section of the constitution (3b) includes some examples of things that we can all do to make sure that NHS resources are available to everyone who needs them.

The responsibilities

Responsibility: 'Please recognise that you can make a significant contribution to your own, and your family's, good health and wellbeing, and take personal responsibility for it.'

Making sure you have a healthy diet, take regular exercise, and avoid smoking or drinking too much alcohol are the best ways to make sure that you can live a full and active life for as long as possible. There are many resources available to help you do this, including digital apps and information to help you live well that you can find at www.nhs.uk/LiveWell (http://www.nhs.uk/LiveWell). Start4Life (https://www.nhs.uk/start4life), Change4life (https://www.nhs.uk/change4life/) and the One You (https://www.nhs.uk/oneyou/) public health campaigns are also good sources of information about healthy lifestyle for families with children, and for adults.

If you need more help or advice ask your doctor, or talk to your nurse, health visitor, school nurse, midwife, local pharmacist or therapist about other things

you can do. To make sure you get the most out of any conversations you have with them:

- take some time beforehand to think about and write down any questions you might want to ask
- repeat back to them what they have told you, so that you can be confident that you have heard it correctly
- if you don't understand something, ask them to explain it in a different way
- write down the information you have been given so that you remember it later

Responsibility: 'Please register with a GP practice – the main point of access to NHS care as commissioned by NHS bodies.'

Your local GP surgery can provide access to medical doctors and a range of other primary care health professionals, which can include nurse practitioners, practice nurses, health visitors, school nurses, midwives, and others. You can find your local GP surgery and other services on the NHS website (http://www.nhs.uk). If you have difficulty finding a GP, you can contact NHS England (the organisation responsible for commissioning GP services) for help.

Responsibility: 'Please treat NHS staff and other patients with respect and recognise that violence or the causing of nuisance of disturbance on NHS premises could result in prosecution.'

You have a right to be treated with respect and dignity in all your dealings with the NHS, but it is also important that you (and anyone who might accompany you) treat staff providing NHS services and other patients with respect and consideration in return. NHS staff should be able to work, and other patients be treated, without fear of being subjected to violence or abuse, nuisance or disturbance.

It is difficult to provide care to you if you are behaving violently and abusively. It is therefore in the interests of your own care, the safety, wellbeing and effectiveness of staff and the care of other patients that individuals do not act abusively and violently when seeking to access NHS services.

Prosecution

NHS organisations take steps, working with clinical experts and other local stakeholders, to promote the safety and security of NHS staff and patients. They will take appropriate action if any violence does occur, which may include involving the police and bringing a prosecution. Assaulting a member of staff or another patient is a serious criminal offence, which can carry a prison sentence of up to life imprisonment depending on the severity of the assault. The fact that an offence has been committed against a person serving the public is considered an aggravating factor.

Provisions under the Criminal Justice and Immigration Act 2008 give NHS hospitals the power to remove from hospital premises individuals not in need of treatment and causing a nuisance or disturbance. If you refuse to leave without a reasonable excuse, you may be prosecuted. Those found guilty of the offence may be liable to a fine of up to £1,000. Where this nuisance or disturbance is persistent and disruptive, NHS bodies can also work in partnership with other authorities to seek punishments for anti-social behaviour to place restrictions on an individual's ability to enter NHS premises.

Alcohol and drugs

Hospital security staff can also be given powers, through the Community Safety Accreditation Scheme, to issue Penalty Notices for Disorder to those individuals whose behaviour is likely to cause harassment, alarm or distress. Those staff can also take action against the consumption of alcohol in a designated public place.

Denial of access to NHS services

Providers of NHS services will have their own policies, which will seek to balance the interests of the patient, other patients and staff. These should reflect that violent and abusive patients can only be denied access to NHS services if it is clinically appropriate to do so, with consideration given to the possibility that the patient may have a severe or life-threatening condition that requires immediate attention. The processes and clinical assessment needed to establish this will depend on the services sought and the circumstances. In most circumstances the patient is to be assessed by an appropriate medical practitioner or suitably qualified person before any decision to refuse access is taken. All decisions should be based upon an assessment of what a patient’s reasonable requirements are in the light of their behaviour and in any given set of circumstances, and should only be made by a senior team member. Where urgent treatment is required, services may need to be provided in a manner that can safely and appropriately manage violent and abusive behaviour.

Some medical conditions or other underlying reasons may cause patients to exhibit disturbed, violent or abusive behaviours. If the patient has a disability, and their impairment is causing or contributing to the violent and abusive behaviour, 'reasonable adjustments' should be made in accordance with the Equality Act 2010 to ensure that the medical condition is identified and treated.

There is no obligation on staff providing NHS services to refuse access to NHS services for patients who are violent and abusive. However, NHS staff may not be able to provide treatment if they feel in serious and imminent danger as a result of any violence or abuse from either the patient(s) they are trying to treat or others in the vicinity. Decisions must be taken as to what is reasonable in any given circumstances, including considering how to protect

the health and safety of staff.

If a decision is made to refuse access to any NHS services, you should be given information about the appropriate way of challenging this decision.

Responsibility: 'Please provide accurate information about your health, condition and status.'

The delivery of safe and effective care is reliant on good quality information. You are responsible for ensuring that information about you is accurate and up to date.

Responsibility: 'Please keep appointments, or cancel within reasonable time. Receiving treatment within the maximum waiting times may be compromised unless you do.'

If you cannot make your planned appointment or no longer want it, please contact your healthcare provider as soon as you can to let them know. This might make it possible for your appointment to be offered to someone else who needs one.

Responsibility: 'Please follow the course of treatment which you have agreed, and talk to your clinician if you find this difficult.'

Courses of treatment that are not completed properly may not work in the way that they are intended and also waste NHS resources that could be used for someone else. Not finishing a course of treatment can also mean that, if you ever need the same treatment again, it will not work as well.

You should follow the course of treatment that you have agreed with your doctor, nurse or therapist wherever possible. You can ask your doctor, nurse or therapist to explain to you what your treatment options are, what the most appropriate treatment is and why. Where required, you can also request a written care plan. Once you have agreed a course of treatment, you should always follow it. If you have any problems with the treatment, seek advice from your doctor, nurse or therapist. Pharmacists can also give advice on medicines that have been prescribed to you.

Responsibility: 'Please participate in important public health programmes such as vaccinations.'

There are many vaccination programmes that help to avoid diseases that could be dangerous to you, your family and those living around you. Your doctor, nurse or therapist will advise you of the benefits and risks of vaccination programmes and other services appropriate to you.

You can also visit the NHS website for a checklist of the vaccines that are routinely offered free of charge and the ages at which they should ideally be

given (http://www.nhs.uk/conditions/vaccinations/). If you're not sure whether you or your child has had all your routine vaccinations, ask your GP or practice nurse, health visitor or school nurse to find out for you.

You should have your vaccinations on time to ensure the best protection. If you're not going to be able to get to the GP surgery when a vaccination is due, talk to the receptionist to find another date as soon as possible. It may also be possible to arrange to have the vaccination at a different location. For school aged children, a school nurse will provide certain vaccines, such as the seasonal flu vaccine.

The NHS also offers a range of screening tests. Screening is a way of finding out if people are at higher risk of a health problem, or have early symptoms that they may not have noticed yet. This means that the NHS can offer you early treatment that may help you to avoid the need for more significant, or emergency, treatment later on. It can also help you to decide how you want to manage the problem yourself, including by making healthier lifestyle choices.

When you are invited for screening, you will receive information about the screening test. You can discuss any aspect of the screening test with your health professional and decide whether or not it's right for you. The NHS website (http://www.nhs.uk) also has lots of information about current screening programmes to help you make an informed choice – search for 'screening' for more information.

One very important public health programme for adults in England who are aged 40 to 74 is the NHS Health Check (https://www.nhs.uk/conditions/nhs-health-check/what-is-an-nhs-health-check-new/). This is designed to spot early signs of stroke, kidney disease, heart disease, type 2 diabetes or dementia. As we get older, we have a higher risk of developing one of these conditions. An NHS Health Check helps us to understand our risks, and the things we can do to reduce them.

Responsibility: ‘Please ensure that those closest to you are aware of your wishes about organ donation.’

To increase the number of organs and tissues available for transplant, a new system of consent was introduced in England in May 2020, known as ‘opt-out’ or ‘deemed consent’. Everyone is now considered an organ and tissue donor, unless they have made a decision that they do not wish to be a donor, for example by registering on NHS’s Organ Donation Register, or are excluded. Further information is available on NHS Blood and Transplant’s website.

Responsibility: ‘Please give feedback – both positive and negative – about your experiences and the treatment and care you have received,

including any adverse reactions you may have had. You can often provide feedback anonymously and giving feedback will not affect adversely your care or how you are treated. If a family member of someone you are a carer for is a patient and unable to provide feedback, you are encouraged to give feedback about their experiences on their behalf. Feedback will help to improve NHS services for all.'

All NHS organisations and local authorities providing public health services should provide you, your family and carers with an opportunity to give feedback on the care that you receive. This might be through, for example, national, local and/or practice surveys, or real-time feedback systems. Feedback to local authorities on their public health services can be provided directly to the Director of Public Health.

The Yellow Card Scheme (https://yellowcard.mhra.gov.uk/) is the UK's system for collecting information on suspected side effects or adverse drug reactions to any medicine or vaccine.

Local Healthwatch enables people to share their views and concerns about their local health and social care services to help build a picture of where services are doing well and where they can be improved.

NHS staff

The constitution applies to all staff, doing clinical or non-clinical NHS work – including on public health – and their employers, wherever they are working. This section describes the elements of the NHS Constitution that refer to NHS staff.

It covers:

- staff rights
- NHS pledges towards staff
- staff legal duties
- the NHS's further expectations of staff

It is our vision that all staff commissioning and providing NHS services should have rewarding jobs that enable staff to utilise their skills and be at their best. They will be able to provide quality care because jobs will have been designed around patients with the input of staff. The inclusion of staff pledges, expectations, responsibilities and legal duties in the handbook reflects the fact that improving the patient experience requires the continued improvement of the working lives of staff.

Staff covered by this handbook include employees and contractors (people operating under a contract to provide services) who commission and/or provide NHS services, whether they work for the NHS organisations or for non-NHS organisations.

Context

The NHS People Plan, published in July 2020, includes a People Promise – a set of promises to staff working in the NHS about how they should feel about working in the NHS by 2024.

The People Promise is about everyone working together to ensure that people working in the NHS achieve the following ambitions:

- we are compassionate and inclusive
- we are recognised and rewarded
- we each have a voice that counts
- we are safe and healthy
- we are always learning
- we work flexibly
- we are a team

The themes and words that make up the People Promise have come from those who work in the NHS. People in different healthcare roles and organisations have made it clear what matters most to them, and what would make the greatest difference in improving their experience in the workplace.

How to use this information

At an organisational level, the NHS staff survey is a key tool through which you can express your views and offer feedback about your organisation as a whole. This handbook should provide useful information to allow you to consider your responses to any surveys. Organisations use their survey findings to influence the way in which things are done locally and to address staff concerns. The CQC uses the NHS staff survey data to support registration of NHS trusts and will use this to assess their ongoing compliance with the registration requirements.

At a personal level, the information in this handbook should provide a framework for discussions among individual members of staff and their line

managers, informing and enabling discussions on service improvement, team working, performance management, training and development.

The handbook is designed to be a useful reference tool and is not intended to provide any new grounds for individual grievances or litigation. Please note, the law changes all the time, and rights and duties will also vary according to individual contracts of employment, so this should not be regarded as definitive legal advice. Anyone seeking to enforce legal rights or duties should seek their own legal advice.

Staff rights

Staff have extensive legal rights, embodied in general employment and discrimination law. This section summarises some important rights for all employees. It is not a statement of the law and should not be regarded or relied upon as legal advice. Individual employees or employers must seek their own legal advice in all cases. Please remember that the law is constantly changing.

It is important to note that legal rights and duties will also vary according to an individual contract of employment. Employers or employees seeking to rely upon or enforce legal rights or duties should also seek their own legal advice in all cases. If you feel that a right is not being respected this should normally be raised with your line manager in the first instance.

Local human resources/personnel teams will have details of their informal and formal resolution procedures and of how redress can be sought. In certain circumstances, you may also have to complain to an employment tribunal and it is very important for you to seek legal advice before doing so.

Right: ‘To fair treatment regarding leave, rights and flexible working and other statutory leave requests relating to work and family, including caring for adults with whom you live.’

This right supports you in having a good working environment, with flexible working opportunities, consistent with the needs of patients and the way that you live your life. It means that you can seek redress through your local arrangements to deal with disagreements either on specific contractual issues (terms and conditions) or on more general employment rights. If unsuccessful, you would have recourse to employment tribunal processes.

Employers are required to make reasonable adjustments to working hours for disabled staff and disabled job applicants.

From September 2021, NHS terms allow for flexible working requests to be

considered as a contractual right from day one of employment, following agreement by the Staff Council. Employers are expected to give due consideration to these principles for all staff groups.

Source of the right

The statutory rules (relating to flexible working) are set out in the Employment Rights Act 1996 and the Flexible Working Conditions 2014.

Right: ‘To request other 'reasonable' time off for emergencies (paid and unpaid) and other statutory leave (subject to exceptions).’

Employers should provide employees with access to leave arrangements that help them to balance their work responsibilities with their personal commitments.

Source of the right

Section 57A of the Employment Rights Act 1996

Right: ‘To expect reasonable steps are taken by the employer to ensure protection from less favourable treatment by fellow employees, patients and others (for example, bullying or harassment).’

Bullying, harassment and discrimination are serious issues and should not be tolerated. Every organisation should have in place a bullying and harassment policy that is easily accessible to staff and managers. This should be monitored on a regular basis by senior managers. It should include details on how such issues will be investigated in a fair and timely way.

Source of the right

Equality Act 2010 and Protection from Harassment Act 1997.

Right: ‘To pay consistent with the National Minimum Wage or alternative contractual agreement.’

This right supports you to have a fair pay and contract framework, and fair treatment regarding pay. National pay policy for the NHS is designed to provide fair, affordable pay in order to recruit, retain and motivate staff for the benefit of patients and to provide value for money for taxpayers. It also provides a range of flexibilities, such as the opportunity for recruitment and retention premia, to ensure that individual employers have the ability to respond effectively to local circumstances, while retaining a consistent national pay framework that is transparent and ensures equal pay for work of equal value. Changes to pay and pay systems from year to year are important to everyone involved in providing NHS services – both as employees and employers. In making these changes, independent advice and recommendations are sought as part of the transparent process to inform the final decision.

If your line manager cannot resolve a problem with your pay and you have sought advice and support from other people in your organisation, you may be able to lodge a 'grievance' with your employer. If that does not lead to a resolution locally, then you may be able to make a claim, which, in some circumstances, would be heard by an employment tribunal or county court.

Staff, who are compulsorily transferred from the NHS to work on NHS-funded contracts will have, their pay, terms and conditions protected at the point of transfer under the Transfer of Undertakings (Protection of Employment) Regulations (https://www.gov.uk/transfers-takeovers) (TUPE) if TUPE applies.

Source of the right

National Minimum Wage Act 1998 and may also exist in the terms and conditions of an employee's contract.

Section 64 to 80 of the Equality Act 2010.

Right: 'To be accompanied by either a trade union official or a work colleague at disciplinary or grievance hearings in line with legislation, your employer's policies or your contractual rights.'

This right supports you to be involved and represented in the workplace, as well to be treated fairly. If you are required to attend either a grievance hearing or a meeting or hearing that may result in disciplinary action, you can make a reasonable request to your employer to be accompanied by a colleague.

The person accompanying you can present and summarise your case and respond, on your behalf, to any view expressed at the hearing if you want them to do so. They cannot, however, answer questions on your behalf unless you and your employer agree.

Your employer's own disciplinary and grievance procedures may allow the accompanying person to take a fuller representational role and participate at an earlier stage of the process.

Source of the right

Section 10 of the Employment Relations Act 1999 and ACAS Code of Practice on Disciplinary and Grievance Procedures.

Right: 'To consultation and representation either through the trade union or other staff representatives (for example where there is no trade union in place) in line with legislation and any collective agreements that may be in force.'

This right supports you to be involved and represented in the workplace and to be treated fairly. It is good practice for your employer to inform and consult you and your trade union or other staff representatives on issues which may

have an impact on your employment.

You have a right to:

- choose to join or not join a union
- decide to leave or remain a member of a union
- belong to the union you choose, even if it is not the one your employer recognises for the purposes of entering into collective agreements
- belong to more than one union

You should be consulted on an individual basis by your employer in any situation where your job may be at risk.

In certain situations, such as redundancy or staff transfers, your employer has either a statutory or a contractual obligation to inform and consult you or your trade union (or other staff representatives where there is no trade union in place).

Exactly who is consulted and how this occurs will depend upon the particular circumstances of your case, your individual employment contract and whether any collective agreements apply.

A recognised trade union may enter into collective agreements on your behalf where the trade union is recognised for this purpose by your employer in line with legislation.

Source of the right

Information and Consultation of Employees Regulations 2004.

Trade Union and Labour Relations (Consolidation) Act 1992 and Regulations made pursuant to it.

Regulations 13 to 16 of the Transfer of Undertakings (Protection of Employment) Regulations 2006 if there is a transfer of a function between employers.

Right: ‘To work within a healthy and safe workplace and an environment in which the employer has taken all practical steps to ensure the workplace is free from verbal or physical violence from patients, the public or staff, to work your contractual hours, take annual leave and to take regular breaks from work.’

This right supports staff to have healthy and safe working conditions and an environment free from harassment, bullying or violence. You can expect your employer to have made a suitable and sufficient assessment of the risks to the health and safety of employees and to have identified preventive and protective measures to be put in place. This will include arrangements to

ensure effective planning, organisation, control, monitoring and review of the preventive and protective measures.

Assessing risks and implementing measures to prevent and manage violence against staff is a local responsibility. NHS organisations are encouraged to adhere to appropriate security management standards. These should include ensuring that there is top-down organisational support for initiatives to protect staff from violence, providing conflict resolution training, and implementing preventive measures and response systems in case of violent incidents. NHS bodies are also encouraged to have accredited local security management leads in place for work to ensure the safety and security of staff working at the organisation.

If your organisation is unable to resolve an issue, under health and safety legislation a complaint can be raised with the Health and Safety Executive or the local enforcing authority.

Source of the right

Health and Safety at Work Act 1974 and associated regulations made under the Act Working Time Regulations 1998 (for provisions relating to leave).

Right: 'To a working environment (including practices on recruitment and promotion) free from unlawful discrimination on the basis of gender, race, disability, age, sexual orientation, religion, belief, gender reassignment, pregnancy and maternity or marital or civil partnership status.'

This right supports you to be treated fairly, equally and free from discrimination. NHS organisations are bound by legislation on unlawful discrimination that apply to all employers. In addition, as public bodies, they generally have duties in carrying out their functions, to have due regard to the need to promote equality of opportunity and to eliminate unlawful discrimination.

As a matter of good practice, your organisation should have a clear policy on equality, diversity and inclusion, enabling people from the widest range of backgrounds to join and progress through the organisation, and a zero-tolerance approach to unlawful discrimination, bullying and harassment. Your organisation should also be knowledgeable about equality and diversity (with staff training available on these issues), and be committed to working towards best practice for inclusive recruitment and development. Examples of best practice include guaranteeing an interview to any disabled candidate who meets the essential criteria set out in the person specification for a vacancy.

If you believe and have evidence that your employer has breached its legal responsibilities, once internal options have been pursued, a complaint can be made to an employment tribunal or to the Equality and Human Rights

Commission (https://www.equalityhumanrights.com/en).

Source of the right

Equality Act 2010.

Right: 'To appeal against wrongful dismissal.'

Any internal appeal process should be set out in your local contractual terms and conditions.

ACAS guidance on grievance and disciplinary outcomes (https://www.acas.org.uk/appealing-a-disciplinary-or-grievance-outcome) outlines that employers should offer individuals the right to appeal.

Employees may raise an appeal if they feel the disciplinary outcome is too severe, if any stage of the disciplinary process was wrong or unfair, or if new evidence comes to light.

Source of the right

Employment Rights Act 1996 unfair dismissal.

Common law right to claim for breach of contract for wrongful dismissal.

The ACAS statutory Code of Practice on disciplinary and grievance procedures (https://www.acas.org.uk/acas-code-of-practice-for-disciplinary-and-grievance-procedures/html)

Right: 'If internal processes fail to overturn a dismissal, you have the right to pursue a claim in the employment tribunal, if you meet required criteria.'

Any complaint may be made to either the employment tribunal or civil courts, depending on the nature and value of the claim made.

Source of the right

Part IX (Termination of Employment) and Part X (Unfair Dismissal) of the Employment Rights Act 1996.

Individuals' contracts of employment will set out their entitlement to notice.

Right: 'To protection from detriment in employment and the right not to have your contract terminated for 'whistleblowing' or reporting wrongdoing in the workplace.'

This right supports you in speaking up about any matter whether about safety, malpractice or other risks, in the public interest. The Employment Rights Act 1996 (ERA) gives employees protection against unfair dismissal and all workers a right not to be subject to any detriment in employment on

the basis that the worker has made a protected disclosure. Detriment may arise because of an action or a failure to act, and an employer may still be liable if the relevant act was done by another worker rather than the employer themselves. Where this right is breached the Employment Rights Act 1996 gives employees and workers a right to seek a remedy through an employment tribunal.

To qualify for protection a disclosure must be made in accordance with the requirements as set out in the ERA. Whether a matter amounts to making a protected disclosure will depend on a number of things, such as, for example, to whom the disclosure is made, what it is about and whether, in the reasonable belief of the worker, the disclosure is made in the public interest.

To qualify for protection a disclosure should be made to one of the categories of people listed in the ERA, which includes the person's employer. In the NHS, disclosures can be made internally within the organisation. In certain circumstances, the disclosure can be raised with a prescribed body (such as the CQC) or to a minister at the Department of Health and Social Care. All NHS organisations should have a speaking up policy.

The provisions in the Employment Rights Act 1996 cover temporary workers, including some agency staff and some self-employed staff who are working for and supervised by the NHS or local authorities, and some students on work experience placements. It does not cover volunteers, but the National Guardian for Freedom to Speak Up and the Department of Health and Social Care regards it as good practice for NHS organisations to include all workers, including volunteers and all students on placements within the scope of their speaking up policies even if they would not qualify for the legal protection (local authorities are responsible for their own policies).

The Employment Rights Act 1996 also makes it clear that any clause in a contract or agreement that purports to prevent an individual from making a 'protected disclosure' is void.

Protection for individuals who speak up was extended to cover job applicants in the NHS in 2018. The Employment Rights Act 1996 (NHS Recruitment – Protected Disclosure) Regulations 2018/No 579 prohibit certain NHS employers from discriminating against job applicants because it appears to the employer that the applicant has made a protected disclosure. For these purposes, an employer discriminates against an applicant if the employer refuses the applicant's job application or otherwise treats the applicant less favourably than it treats or would treat other applicants in relation to the same contract, office or post.

Where a job applicant is subjected to such detrimental treatment by the NHS employer, they can bring a claim for compensation in an Employment Tribunal. They can also apply to the civil courts to bring a claim for breach of

statutory duty for the purpose of, among other things, restraining or preventing discriminatory conduct by the NHS employer.

Initial advice and signposting for people who wish to speak up can be obtained free of charge via the freephone Speak Up Direct Helpline on 08000 724 725 or Speak Up website. Workers in a range of organisations will also be able to speak up in confidence, where appropriate, to their local Freedom to Speak up Guardian, who can help advise on your next steps. In addition, organisations such as Protect, the whistleblowing charity, publish material, including information about the law.

This is a summary of the law but should not be relied on as legal advice. Individuals should obtain their own legal advice.

Source of the right

The Employment Rights Act 1996

Right: 'You have a right to employment protection in terms of continuity of service for redundancy purposes if moving between NHS employers.'

This right supports you, if you are an NHS employee, in having employment protection. All staff, including doctors and dentists in professional training, will be able to count previous continuous service when they move between NHS employers for the purposes of determining eligibility for redundancy payments as long as there has not been a break of a week or more (measured Sunday to Saturday) between any periods of employment.

Source of the right

Employment Protection (Continuity of Employment of National Health Service Employees) (Modification) Order 1996.

Section 218(8) of the Employment Rights Act 1996 and Redundancy Payments (National Health Service) (Modification) Order 1993.

Right: 'You have rights relating to the ability to join the NHS Pension Scheme.'

This right supports you, if you are an NHS employee, or other eligible person, to join the NHS Pension Scheme. Staff employed by NHS organisations can join the NHS Pension Scheme, as can GPs, dentists, some other NHS primary care practitioners and employees of Independent Providers of NHS Health Services. Local authority staff have their own pension scheme.

The Treasury Guidance 'A fair deal for staff pensions' (https://www.gov.uk/government/publications/fair-deal-guidance) allows all staff compulsorily transferred from the NHS to independent providers delivering public services

to retain access to the NHS Pension Scheme in many circumstances.

All providers of NHS services are encouraged to adhere to the government's 'Principles of Good Employment Practice', which is a statement of good employment practice for government, contractors and suppliers. The statement encourages suppliers to provide new entrants with fair and reasonable pay and terms and conditions, including, where eligible, access to the NHS pension scheme or suitable alternative pension provision.

Source of the right

Rights conferred by the National Health Service Pension Scheme Regulations 1995, the National Health Service Pension Scheme Regulations 2008 and the National Health Service Pension Scheme Regulations 2015 (all amended from time to time). Note that as of 1 April 2015, a person cannot accrue further service in the 1995 or 2008 Sections of the NHS Pension Scheme (governed by the 1995 and 2008 Regulations respectively) unless they have transitional protection. Otherwise, all service from this date must be accrued in the 2015 NHS Pension Scheme (governed by the 2015 Regulations).

NHS pledges to staff

The pledges to NHS staff reaffirm the vision that quality workplaces should exist for all staff delivering NHS services – they should not just be the preserve of high-performing organisations. This is important, since the evidence suggests that there is a clear connection between the experiences of patients and staff.

The pledges are made by all employers that provide NHS services, and are made to all staff who deliver NHS care both clinical and non-clinical.

The pledges are not legally binding but represent a commitment by the NHS to provide high quality working environments for staff.

They should be read in conjunction with the NHS People Plan, released in July 2020, which included the development of the People Promise – a set of promises to all employees working in the NHS. The People Promise is about everyone working together to ensure that people working in the NHS achieve the following ambitions:

- we are compassionate and inclusive
- we are recognised and rewarded
- we each have a voice that counts
- we are safe and healthy

- we are always learning
- we work flexibly
- we are a team

Pledge: 'The NHS pledges to provide a positive working environment for staff and to promote supportive, open cultures that help staff do their job to the best of their ability.'

A positive working environment not only has benefits in terms of your experience; it is also linked to positive outcomes for patients. In environments where you feel valued, cared about and supported, you are in turn more able to value, care about and support your patients.

Several studies have shown clear evidence of the link between good staff experience and good patient experience, including:

- research undertaken in 2011 by the Aston University Business School (https://www.gov.uk/government/publications/nhs-staff-management-and-health-service-quality)
- a 2012 report by Jill Maben, Riccardo Peccei, Mary Adams, Glenn Robert, Alison Richardson, Trevor Murrells and Elizabeth Morrow (http://www.netscc.ac.uk/hsdr/files/project/SDO_A1_08-1819-213_V01.pdf)

An open and supportive culture was identified by the Mid Staffordshire Foundation Trust Public Enquiry ('Francis Inquiry') as a key element in successful organisations.

NHS staff are committed to their jobs and wish to perform to the best of their ability. Organisations play an important role in supporting staff to do this. Providing an appropriate culture, terms and conditions will allow the NHS to gain the most from its staff.

Pledge: 'The NHS pledges to provide all staff with clear roles and responsibilities and rewarding jobs for teams and individuals that make a difference to patients, their families and carers and communities.'

There is a real chance to benefit everyone by designing roles and responsibilities that both enable the delivery of high-quality care and allow staff to make a difference to patients, their families, carers and communities.

Contracts of employment for most NHS staff support this pledge. For example, under Agenda for Change, staff jobs should have been robustly evaluated and linked to pay rates. Staff should receive regular appraisals and opportunities for training and development.

Pledge: 'The NHS pledges to provide all staff with personal

development, access to appropriate education and training for their jobs, and line management support to enable them to fulfil their potential.'

NHS organisations provide a wide range of opportunities for development. The many career options mean you can experience a variety of health and care settings, skills and practice, and progress to different roles. Employers have a responsibility to create the time and space for training and development so that staff can build their capabilities. There are opportunities to take advantage of shadowing and secondments, coaching and mentoring, and contribute towards research and teaching. Staff should be offered opportunities to exchange their skills and knowledge across the local health and care system, and beyond.

At a national level, Health Education England (HEE) (http://hee.nhs.uk/) is responsible for ensuring that education, training, and workforce development drives the highest quality public health and patient outcomes.

HEE will:

- place providers of NHS services firmly in the driving seat to plan and develop the workforce, within a coherent national framework and to consistent standards
- ensure that staff are available with the right skills and knowledge, at the right time, and that the shape and structure of the workforce evolves to meet changing needs
- provide a clear focus on the entire healthcare education and training system, and ensure greater accountability against service improvements
- ensure that investments made in education and training are transparent, fair and efficient, and achieve good value for money

Pledge: 'The NHS pledges to provide support and opportunities for staff to maintain their health, wellbeing and safety.'

You should be able to work in a safe and healthy environment, in line with existing general employment law and health and safety law. Employers are legally responsible for providing a safe working environment for you, and you also should ensure that you are fit to practise and that you, too, comply with health and safety legislation.

You are also supported at work in a number of other ways:

- There are standards for NHS bodies on protection of staff from violence, including prevention wherever possible through appropriate policies, procedures, training and support, as well as taking all appropriate action when violence does occur. NHS organisations are responsible for local policies and operational guidance and assistance on these issues, as well as ensuring accreditation training for local security-specialists. NHS

organisations should work with their local police, Crown Prosecution Service, and their own security personnel and staff to promote staff safety and security. The aim should be, where appropriate, to facilitate effective criminal action against those who assault staff.

- In order to tackle anti-social behaviour that affects staff and their ability to perform their roles, legislation provides a power for NHS staff or the police to remove from hospital premises individuals, not requiring treatment, who are creating a nuisance or disturbance.
- The Health and Social Care Act 2008 Code of Practice on the prevention and control of infections and related guidance (https://www.gov.uk/government/publications/the-health-and-social-care-act-2008-code-of-practice-on-the-prevention-and-control-of-infections-and-related-guidance) aims to ensure that NHS staff, as well as patients and others, are protected against the risk of acquiring infections. It sets out 10 criteria that the CQC will judge all registered providers of healthcare and adult social care against. The criteria focus on how well infection prevention requirements, which are set out in regulations (Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (SI 2014/2936)), are being met.

You should also receive appropriate support for your health and wellbeing, including your mental health. There are already a considerable number of initiatives at all levels. The Department of Health and Social Care, NHS Counter Fraud Authority, NHS Employers, NHS England and NHS Improvement and others are actively supporting programmes to provide a healthy working environment, improve the health and wellbeing of NHS staff, and tackle violence, bullying, harassment and stress in the workplace. All are committed to supporting the NHS, as the UK's largest employer, implement the 10 core and enhanced standards on mental health in the workplace as set out in the report by Paul Farmer and Lord Dennis Stevenson ‘Thriving at work: a review of mental health and employers’ (2017).

Additionally, NHS England and NHS Improvement supported by NHS Employers have been leading work to help employers in improving the physical and mental health and wellbeing of staff to support the government's commitment to ensure quicker access to musculoskeletal, mental health and weight management services for staff who need them. NHS England and Improvement have published a comprehensive list of resources to support your health and wellbeing.

A key area of promoting the health and wellbeing of staff at work is to ensure that all leaders and managers recognise the need for supporting staff when off sick to help them back into work – in particular, they need to think carefully about necessary workplace adjustments which may be needed to ensure that the return to work is sustained. Further resources for people leaders is available on NHS England and Improvement (https://people.nhs.uk/support-for-leaders/) and NHS Employers (https://www.nhsemployers.org/retention-and-staff-experience/health-and-wellbeing) websites.

Individual local authorities have their own initiatives.

Pledge: 'The NHS pledges to engage staff in decisions that affect them and the services they provide, individually, through representative organisations and through local partnerships working arrangements. All staff will be empowered to put forward ways to deliver better and safer services for patients and their families.'

The national Social Partnership Forum (https://www.socialpartnershipforum.org/), which includes the Department of Health and Social Care, NHS Employers, NHS trade unions, NHS England, NHS Improvement and Health Education England, offers an opportunity to discuss, debate and get involved in the development and implementation of the workforce implications of policy. Each partner on the national Social Partnership Forum has signed the Partnership Agreement. The agreement outlines how the partners will work together to promote effective partnership working and engage on workforce issues.

Partnership arrangements are in place or are being developed across the NHS, at national, regional or employer/system (organisations providing integrated health and care) level.

Organisations that deliver NHS services often rely on good partnership working with trade unions. They also rely on engagement with professional organisations and stakeholders as well as directly with employees. Recent years have also highlighted the importance of building staff networks such as disability, LGBTQ+, ethnic minority, women, etc. Thanks to those networks, organisations can hear voices representing real diversity reflected in the NHS workforce. Making sure staff are empowered to speak up – and that when they do, their concerns will be heard – is essential if we are to create a culture where patients and staff feel safe. The benefits of such working are best realised when staff representatives bring an authentic employee voice to the partnership in a spirit of flexibility and constructive joint problem solving, with the aim of service improvement.

Local authorities also engage with staff and trade unions, and individual authorities will have their own mechanisms for doing so.

Effective partnership working requires all partners to build capability and make a firm commitment to provide the necessary resources.

Organisations in the NHS can involve you in a range of ways, from line managers informally seeking views from you to formal consultations. Effective engagement enables you to contribute to service improvement and help organisations meet current challenges and prevent future issues. NHS Employers (http://www.nhsemployers.org) has produced resources to help support staff engagement and involvement, including professional networks and communities.

A growing body of evidence shows that high levels of staff engagement in NHS organisations can have a positive impact on patient experience and healthcare outcomes. The best performing organisations have effective staff engagement policies in place. These support a culture in which staff are motivated and are actively asked for their views to provide the best quality care possible.

In 2011, the Aston University Business School conducted research on behalf of the Department of Health, providing clear evidence of the link between good staff experience and good patient experience (https://www.gov.uk/government/publications/nhs-staff-management-and-health-service-quality).

More recent research has identified links between employee engagement, sickness absence and agency spend in NHS trusts (https://www.england.nhs.uk/publication/employee-engagement-sickness-absence-and-agency-spend-in-nhs-trusts/) and highlighted the links between staff and patient experience and patient satisfaction (https://www.england.nhs.uk/publication/links-between-nhs-staff-experience-and-patient-satisfaction-analysis-of-surveys-from-2014-and-2015/).

The NHS Staff Survey will continue to be an important benchmark, encouraging organisations to engage with their staff.

Pledge: 'The NHS pledges to have a process for staff to raise an internal grievance.'

A grievance is usually a complaint by an employee about action which their employer has taken or is contemplating taking in relation to them, and should not be confused with a whistleblowing concern, which is usually about a risk, malpractice or wrongdoing that affects or relates to others, and which is in the reasonable belief of the individual making the disclosure, made in the public interest.

Your organisation should have a written procedure for handling any disciplinary or grievance issues. This will set out the process, which should be followed.

(See also the right to protection from detriment in employment and the right not to have your contract terminated for whistleblowing or reporting wrongdoing in workplace.)

Pledge: 'The NHS pledges to encourage and support all staff in raising concerns at the earliest reasonable opportunity about safety, malpractice or wrongdoing at work, responding to and, where necessary, investigating the concerns raised and acting consistently with the Employment Rights Act 1996.'

All NHS organisations and local authorities should have policies and procedures in place to support and encourage all workers to speak up at the

earliest reasonable opportunity and respond to the matters raised. These should be aligned to national integrated speaking up policy. Local arrangements should include providing all workers with access to a Freedom to Speak Up Guardian. Guardians are there to ensure that workers who wish to speak up receive all appropriate support to do so, in accordance with their trust's policies and procedures and good practice, and to work within their organisation to tackle barriers to speaking up. Guidance for NHS organisations to assist them in developing robust arrangements to support their staff to raise concerns is also available.

NHS bodies and local authorities have a role in building trust and confidence across the health service. A responsible attitude to supporting all workers who speak up about any matter helps each organisation to promote a healthy workplace culture built on openness and accountability.

Staff legal duties

This section summarises some important existing legal duties, that you must observe. This is a summary of the position and is not intended to be legal advice or relied upon as legal advice. You are advised to seek independent legal advice on their duties in all cases.

Duty: 'To accept professional accountability and maintain the standards of professional practice as set by the appropriate regulatory body applicable to your profession or role.'

Action can be taken based on the policies and practices of regulatory bodies:

- General Medical Council (https://www.gmc-uk.org/) (GMC)
- Nursing and Midwifery Council (https://www.nmc.org.uk/) (NMC)
- General Dental Council (https://www.gdc-uk.org/) (GDC)
- General Chiropractic Council (https://www.gcc-uk.org/) (GCC)
- General Optical Council (https://www.optical.org/) (GOC)
- General Osteopathic Council (https://www.osteopathy.org.uk/home/) (GOsC)
- General Pharmaceutical Council (https://www.pharmacyregulation.org/) (GPhC)
- Health & Care Professions Council (https://www.hcpc-uk.org/) (HCPC)

For further guidance see the duty to act in accordance with the express and implied terms of your contract of employment.

Source of the duty

Relevant guidance or regulations of regulatory bodies.

Duty: 'To take reasonable care of health and safety at work for you, your team and others, and to co-operate with employers to ensure compliance with health and safety requirements.'

Disciplinary action may be taken by your employer against you if you breach health and safety policies.

Source of the duty

Health and Safety at Work Act 1974.

Duty: 'To act in accordance with the express and implied terms of your contract of employment.'

An employer may take disciplinary action against you for failure to observe the express and implied terms of your contract, the ultimate sanction being dismissal after following a fair and legal process. Express terms cover contractual issues like working hours, place, and duties of work, annual and sickness absence provisions, equality and diversity policies. Implied duties can cover issues such as the duty of mutual trust and confidence, to serve and work for the employer, to exercise reasonable skill and competence when undertaking our role, to obey reasonable and lawful orders, and fidelity towards your employer.

These are express and implied terms of the contract of employment under common law.

The majority of your written particulars of employment must be provided to you in a single document on or before the date on which your employment starts. Other written particulars must be provided no later than two months after the beginning of your employment. This obligation extends to workers as well as employees.

Source of the duty

Section 1 of the Employment Rights Act 1996.

Duty: 'Not to discriminate against patients or staff and to adhere to equal opportunities and equality and human rights legislation.'

Disciplinary action may be taken by an employer against workers who breach discrimination policies, which should reflect the duties set out in the Equality Act 2010. The information commissioner may also take action against an employer for an employee's breach of the Data Protection Act.

Source of the duty

Equality Act 2010 and Human Rights Act 1998.

Where human rights are concerned (for example, Article 2 of the European Convention on Human Rights (ECHR) (right to life)), discrimination may be

contrary to Article 14 of the ECHR.

If discrimination amounts to a breach of Article 14 ECHR, there may be a claim for damages under the Human Rights Act 1998.

Judicial review of a discriminatory decision or policy.

Duty: 'To protect the confidentiality of personal information that you hold.'

You have a duty when using and sharing data in the interests of a person's care and of improving NHS services, to protect the confidential data in accordance with NHS and/or your organisation's guidelines. This includes ensuring that when data is shared there is a legal basis to do so and taking into account a person's choice if they have opted out of sharing their confidential patient information for purposes other than their direct care.

Disciplinary action may be taken by the employer against you if you breach the confidentiality and data protection policies.

Source of the duty

Data Protection Act 2018.

Common law duty of confidentiality.

Also covered in professional conduct guidance and national data opt-out guidance.

Duty: 'To be honest and truthful in applying for a job and in carrying out that job.'

An employer could take disciplinary action for failure to adhere to duty of trust and confidence.

Certificates of an employee's previous convictions can be obtained from the Disclosure and Barring Service under Part V of the Police Act 1997.

Source of the duty

The duty to be honest and truthful is an implied duty of trust and confidence in the employment relationship, which emanates from common law.

The duty to declare criminal convictions exists in the Rehabilitation of Offenders Act 1974 and the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended).

Expectations – how staff should play their part in ensuring the success of the NHS

High-quality patient care is delivered by staff who are ambitious in their expectations of themselves and their colleagues. These expectations show how staff can play their part in delivering high-quality care. They also correspond to some degree to the staff pledges and chime with the NHS values. They apply to all staff providing NHS care.

This section sets out what employers can legitimately expect from employees and gives some examples of what staff can do to help realise these expectations.

Expectation: 'You should aim to provide all patients with safe care, and to do all you can to protect patients from avoidable harm.'

All members of staff have a personal responsibility for patient safety and individual's needs.

Every person working in NHS-funded care has a duty to identify and help reduce the risks to the safety of patients, and acquire the skills necessary to do so in relation to their own job, team and adjacent teams.

Even though hazards in care cannot be eliminated, harm to patients can be and should be reduced continually and everywhere. All members of staff have a personal responsibility for patient safety and individuals' needs. The following extracts from 'A promise to learn - a commitment to act' (https://www.gov.uk/government/publications/berwick-review-into-patient-safety), outlines what staff should do in line with this expectation:

"For NHS staff and clinicians, especially important steps are to:

- Participate actively in the improvement of system care.
- Acquire the skills to do so.
- Speak up when things go wrong.
- Involve patients as active partners and co-producers in their own care."

There is no standard definition for 'avoidable harm'. It is a simple term used to describe a complex concept. In practice, it can be very hard to be certain whether harm is 'avoidable' or 'unavoidable'. Indeed, it is important to guard against a simplistic view that some harm is avoidable and the rest is not. In this context, the concept of 'avoidable harm' is generally used to refer to unexpected or unintended injury, suffering, disability and death, where that is directly caused by either the provision of healthcare that in some way falls short of what is considered acceptable practice, or by healthcare not being provided when it should have been.

Determining what is 'acceptable' in healthcare can be very difficult and will vary depending on who is being asked, but judging whether harm could have been prevented does rely on assessing whether 'acceptable' healthcare was provided. It can also be very difficult to determine if injury, suffering and death, is the direct result of falling short of acceptable practice or arises from the patient's clinical condition.

Under Section 20 of the Health and Social Care Act 2008, harm is avoidable, in relation to a service, unless the person providing the service cannot reasonably avoid it (whether because it is an inherent part or risk of a regulated activity or for another reason). Compliance by providers will be checked by the CQC, which will develop its own practice in terms of what it looks for.

In order to protect patients from avoidable harm, healthcare professionals should ensure they adhere to the relevant professional codes relating to safety. Health professionals should also adhere to all those policies and instructions issued by the provider organisation they serve, which support its ability to comply with Regulations 12 and 13, fundamental standards of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

As the National Advisory Group on the Safety of Patients in England made clear:

> “ there is no way to guarantee the safety of patients always and everywhere. Safety is a continually emerging property, and the battle for safety is never 'won'; rather, it is always in progress. But healthcare professionals should always strive to work in a way that continually reduces risk.”

See A promise to learn – a commitment to act: improving the safety of patients in England (https://www.gov.uk/government/publications/berwick-review-into-patient-safety), 2013, National Advisory Group on the Safety of Patients in England.

Expectation: ‘You should aim to follow all guidance, standards and codes relevant to your role, subject to any more specific requirements of your employers.’

It is important to reassure patients that all NHS staff are following the required guidance, standards and codes when fulfilling their role. This expectation helps to clarify this, while also reflecting the need for you to follow any further specific requirements of your employer. The phrase 'subject to any more specific requirements' refers to any additional guidance, standards or codes provided by your employer, and should only ever build on the professional codes of practice, which are outlined below.

Professional codes of practice

Professional codes of practice are a set of written rules which explain how people working in a particular profession should behave. Below are links to some examples of applicable professional codes and practices:

- General Medical Council (http://www.gmc-uk.org/guidance/)
- Nursing and Midwifery Council (http://www.nmc.org.uk/standards/code/)
- General Pharmaceutical Council (http://www.pharmacyregulation.org/standards)
- General Dental Council (https://www.gdc-uk.org/professionals/standards)
- Health and Care Professions Council (https://www.hcpc-uk.org/standards/)
- General Osteopathic Council (http://www.osteopathy.org.uk/about-us/the-organisation/code-of-conduct/)
- General Chiropractic Council (https://www.gcc-uk.org/good-practice/)
- General Optical Council (https://www.optical.org/en/Standards/Standards_for_individuals.cfm)

For further information, please visit NHS Employers (http://www.nhsemployers.org).

Expectation: 'You should aim to maintain the highest standards of care and service, treating every individual with compassion, dignity and respect, taking responsibility not only for the care you personally provide, but also for your wider contribution to the aims of your team and the NHS as a whole.'

Keep your professional and other job-related skills up to date.

Actively engage in appraisal, personal development planning and revalidation.

Ensure that you complete mandatory or statutory training.

Expectation: 'You should aim to find alternative sources of care or assistance for patients when you are unable to provide this (including for those patients who are not receiving basic care to meet their needs).'

Where a patient is in need of basic care which you are unable to give, you should either ensure that it is provided by others, or inform someone who is in a position to take the appropriate action.

Where the provider is unable within an acceptable time to provide treatment or care needed by a patient, you should either refer the patient to a provider who is able to do so, or advise the patient where such treatment or care can be obtained.

Where a patient prefers a reasonable alternative to the treatment they are offered, you should either refer them to a provider who can offer the alternative, or offer advice as to where the alternative might be found.

Expectation: 'You should aim to take up training and development opportunities provided over and above those legally required of your post.'

Expectation: 'You should aim to play your part in sustainably improving services by working in partnership with patients, the public, and communities.'

Contribute your ideas and welcome contribution from others. Inform yourself about, and be prepared to contribute to, discussions on issues and decisions that impact upon your work and/ or the services you provide or support.

Explore opportunities to engage with patients, carers and communities. Offer challenge where services are changed without patient or staff contribution.

Expectation: 'You should aim to raise any genuine concern you have about a risk, malpractice or wrongdoing at work (such as a risk to patient safety, fraud or breaches of patient confidentiality), which may affect patients, the public, other staff or the organisation itself at the earliest reasonable opportunity.'

Set an example to your colleagues in your day-to-day activities by speaking up about behaviours that may impact on the quality or safety of services or the working environment. Speak up about matters that may be improved as well as those that you feel are not right.

Understand your own responsibilities and your organisation's arrangements for speaking up, including whom you can approach for advice or to whom you should report matters.

Understand any professional obligations you may have as part of the Code of Conduct for regulated professions such as medicine or nursing.

If you wish to speak up about something, you should normally do so with your line manager, lead clinician, or similar person, in the first instance.

If you feel unable to do this, your organisations speaking up policy should set out additional routes, including details of their Freedom to Speak Up Guardian.

If you have spoken up but feel the matter has not been addressed properly you should normally raise your concern with someone else in your employing organisation; for example, to your department manager, head of midwifery,

director of nursing, medical director or chief executive.

You are also able to speak up outside your organisation such as to a regulator including CQC.

You may wish to seek advice so that you receive appropriate support and guidance. This could be from a representative of your professional body, regulatory body, or trade union.

In some cases, it will be a matter of judgement on how best to proceed. The Speak Up Direct helpline provides a free, independent and confidential service, which can support staff who need advice. The freephone helpline number is 0800 072 4725.

If your concern is related to a detected or suspected incidence of fraud or corruption, you should follow your speaking up policy or the reporting procedure prescribed by NHS Counter Fraud Authority by reporting directly to the Director of Finance, the local anti-fraud lead or via the fraud and corruption line or online reporting form. You will still be entitled to make a complaint and if you have made a protected disclosure, receive protection under ERA. Local authority staff are also subject to the same expectation, and individual authorities are responsible for putting appropriate processes in place.

Wider disclosure

In certain circumstances, the matters you speak up about (‘disclosures’) may be protected under the Employment Rights Act 1996 if they are made to persons other than your employer. A number of conditions will apply depending on the identity of the person to whom the disclosure is made. Staff considering such a disclosure are advised to take legal advice, or advice from the Speak Up Direct helpline, their trade union or their regulatory body before taking this step.

Expectation: ‘You should aim to involve patients, their families, carers or representatives fully in decisions about prevention, diagnosis, and their individual care and treatment.’

It is important that patients are treated as equal, informed and active partners, and that they are given all the information they need to enable them to make an informed decision about their care, rather than simply told what the treatment will be. You will want to discuss their preferences and personal circumstances with each patient and ensure that those are reflected in the decision that is made, where a range of potentially suitable treatments or forms of healthcare are available. If the patient wishes, these discussions can include their family and carers.

Not everyone will wish to take up their right to be involved in discussions and

decisions about their health and care. Some people will not be able to do so for themselves, for example if they are unconscious have a condition which affects their mental capacity to make all or some decisions. The Mental Capacity Act sets out how others can make healthcare decisions for individuals in these circumstances.

Expectation: 'You should aim to be open with patients, their families, carers or representatives, including if anything goes wrong; welcoming and listening to feedback and addressing concerns promptly and in a spirit of co-operation.'

Communicate openly, honestly and sympathetically with patients and their families, carers or representatives about their care.

If a patient safety incident occurs, acknowledge what has happened; apologise to the patient and their families, carers or representatives for the harm that may have resulted and explain clearly what went wrong and what is being done in response to the incident as soon as possible. This includes involving the patient or their representative appropriately in any investigation and keeping them updated about its progress.

Use the results of investigations to explain to patients, their families, carers or representatives how lessons are being learned to help prevent the incident recurring.

Provide support to the patient and their families, carers or representatives to help them cope with the physical and psychological consequences of what happened.

Understand your organisation's complaints procedures. Respect patient concerns.

Seek users' views on services. Listen to your patients, their families and carers. Use the feedback you receive to improve your practice and the care you provide.

Expectation: 'You should aim to contribute to a climate where the truth can be heard, the reporting of, and learning from, errors is encouraged, and colleagues are supported where errors are made.'

Report patient safety incidents, including 'no harm' incidents or near misses. Actively support colleagues involved in patient safety incidents.

Seek out and implement the learning from investigations to prevent recurrence of incidents. Be vigilant about hygiene and report unacceptable hygiene practices.

Participate in the NHS staff survey.

Do not tolerate bullying, harassment or violence.

Expectation: 'You should aim to view the services you provide from the standpoint of a patient, and involve patients, their families and carers in the services you provide, working with them, their communities and other organisations, and making it clear who is responsible for their care.'

Listen to your patients, their families and carers and respect their concerns. Respect and treat them with dignity.

Welcome and encourage feedback (both positive and negative) from patients, their families and carers and use this to improve the services you provide.

Understand your organisation's complaints procedures.

Expectation: 'You should aim to take every appropriate opportunity to encourage and support patients and colleagues to improve their health and wellbeing.'

You should use, where appropriate, opportunities to help patients understand how they can improve their health and wellbeing and help to reduce health inequalities by:

- identifying appropriate opportunities as they arise to help people make healthy life-style changes
- understanding and respecting an individual's feelings towards discussing their life-style behaviours
- providing brief life-style advice and signposting and/or referring to appropriate services
- promoting awareness of entitlement to services that can help to improve their health and wellbeing, including NHS Health Checks for eligible adults aged 40 to 74
- using health literacy approaches to ensure that patients are able to understand and use information given to them about their health and wellbeing

Health literacy is about patients having the knowledge, skills, understanding and confidence they need to be able to use health and care information and services effectively. It includes:

- encouraging patients to prepare in advance for their appointments and providing them with appropriate resources to help them prepare.
- using simple language, avoiding complicated medical terminology and tailoring language to suit individual patient needs. (It is important to remember that between 43 and 61% of working age adults in England

struggle to understand health information Rowlands, Protheroe et al, British Journal of General Practice (2015))
- using techniques such as 'teach back' or 'chunk and check' to ensure that patients have understood any information or instructions you have given them

The Health Literacy Toolkit (https://www.hee.nhs.uk/our-work/population-health/training-educational-resources) contains a suite of resources to support the implementation of health literacy approaches including:

- 'how-to' guide
- business case
- workshop lesson plan and slides
- case studies
- strategic report

Making Every Contact Count (http://www.makingeverycontactcount.co.uk/) is an opportunity to improve patient care, treatment and outcomes and help people live well for longer. It also helps to provide best value for public money and the most effective, fair and sustainable use of finite resources in a way that benefits everyone the NHS serves.

As part of encouraging and supporting patients to improve their health and wellbeing, it may at times be beneficial to offer patients the opportunity to personalise their own health and care (https://www.england.nhs.uk/personalisedcare/) in a way that can support improved outcomes.

Expectation: 'You should aim to contribute towards providing fair and equitable services for all and play your part, wherever possible, in helping to reduce inequalities in experience, access or outcomes between differing groups or sections of society requiring healthcare.'

You should use, where appropriate, opportunities to help patients understand how they can improve their health and wellbeing and help to reduce health inequalities by:

- recognising that the social and economic conditions in which people are born, live, work and grow older affect their health, and the ways in which they look after their own health and use services throughout their lives
- understanding the barriers faced by vulnerable groups in accessing services, such as high levels of illiteracy, lack of knowledge of mainstream services, experience of discrimination and mistrust of authority
- appreciating the need for cultural awareness and cultural competency to avoid misunderstanding and creating tension
- taking the opportunity to address all the health problems of those with complex, multiple needs, which are often compounded by chaotic

lifestyles, and only discharging patients from care when their health and housing needs have been addressed

Expectation: 'You should aim to inform patients about the use of their confidential information and record their objections, consent or dissent.'

As a staff member, you should aim to support patients in understanding how their confidential information is used. You should record the patient's views – any objection, opt-out, consent or dissent.

Where you are not able to provide this information or answer questions about it then you should refer them to the relevant person in the organisation who can provide this information and consider any objections.

Expectation: 'You should aim to provide access to patients' information to other relevant professionals, always doing so securely, and only where there is a legal and appropriate basis to do so.'

This reflects the pledges in the constitution to ensure information is available to those caring for individuals to support the best care possible and for other purposes, but only where there is a legal basis to do so.

↑ Back to top