

Discrimination and complaints

Key

- R** A **right** you have as a user of a service
- E** An **expectation** you should have as a user of a service, based on best practice and professional standards
- A** This is **advice** on how to get the most out of your services

What protection do I have against HIV discrimination?

You have a right not to be unlawfully discriminated against in accessing any healthcare or social care services. Discrimination is unlawful on the basis of gender, race, religion or belief, sexual orientation, disability or age.¹ **R**

HIV is legally defined as a disability from the moment you are diagnosed. You do not have to think of yourself as disabled to be protected by this law (the Equality Act 2010). From the point of view of the law, you have a disability and so any HIV discrimination against you is unlawful.¹ **R**

Discrimination in healthcare might involve:

- A doctor, nurse or dentist refusing to treat you because you have HIV
- Having to wait longer to be treated because you have HIV (for example, being told you must take the last appointment of the day)
- Or any situation where you get worse treatment than other patients because of your HIV.

Discrimination in social care might involve:

- refusal to provide a service because you have HIV
- a poorer quality service because you have HIV (e.g. taking unnecessary additional precautions against HIV transmission when providing personal care services).

You are also legally protected against harassment. This is behaviour by healthcare or social care staff which violates your dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment.¹ **R**

The Equality Act also protects you from further discrimination if you choose to make a complaint (this is an example of 'victimisation').¹ **R**

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- **EASS (Equality Advice Support Service)** – Provides information and advice to individuals on discrimination and human rights issues including your rights under the Equality Act. 0808 800 0082
- **THT Direct** – the Terrence Higgins Trust run a free confidential helpline for emotional support, information and advice on HIV, including problems you are having getting the social support you need 0808 802 1221.
- **MyHIV** – A website from the Terrence Higgins Trust to support people living with HIV as a long term condition. As well as information and resources, MyHIV includes a confidential forum where people living with HIV can support each other and share experiences and advice. <http://www.myhiv.org.uk/>


[1] Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/contents>

What do I do if I'm unhappy about my HIV care?

If you are unhappy with the care being provided to you by your HIV doctor you have a right to ask to be seen by another doctor. You can also move to another clinic. But you should first raise your concerns and see whether they can be sorted out.


Your clinic may also have a patient representative living with HIV who can give you advice and help you decide what to do about your complaint. You can also get help and advice from:

- **PALS** (the patient advisory and liaison service) - PALS' role is to help patients raise their concerns with NHS providers. Your clinic should be able to signpost you to your local PALS.
- **ICAS** (the independent complaints and advocacy service) – ICAS can help you make a formal complaint about NHS services http://www.pohwer.net/how_we_can_help/independent.html
- **THT Direct** – the Terrence Higgins Trust run a free confidential helpline for emotional support, information and advice on HIV, including problems you may have with your clinic 0808 802 1221.
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You have a right to have input into how your HIV clinic services are planned and provided. The clinic should explain to you the basics of how the clinic services are run and how you can get involved and you should be able to see agendas and minutes of planning meetings.¹ 

[1] BHIVA Standards – Standard 10 – Participation of people living with HIV in their care. <http://www.bhiva.org/standards-of-care-2012.aspx>

How do I complain about my GP or dentist?

You have the right to complain about any aspect of your experience in your GP practice or dentist, and to learn the outcome of your complaint.¹ 

Your first step is to complain directly using the complaints procedure at the practice. Most will have a written complaints procedure, or you may speak to the practice manager. If the practice does not resolve your complaint satisfactorily, you may go to your local independent complaints advocacy service (ICAS) - your local council should provide details. If you still cannot resolve the issue, you can complain to the Parliamentary and Health Service Ombudsman.



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[1] Handbook to NHS Constitution, March 2013.

<http://www.nhs.uk/choiceintheNHS/Rightsandpledges/NHSConstitution/Pages/Overview.aspx>

Can I complain about the social care I am getting?

You have the right to make a complaint about any aspects of the social care you are getting. This might include situations where you think you have been discriminated against because of your HIV, nationality, sexuality or gender, or if you think your right to confidentiality has not been respected.¹  It can also include any complaints you have about the amount of funding you have been given in your direct payment, if you have not been able to resolve this through discussions with your local authority.² 

The complaint should be made using the local authority social services complaints procedure. If you are complaining about the quality of the service you got, you should firstly complain directly with the service provider or practitioner. You may be able to work with an independent conciliation and mediation service to resolve the issue. If the complaint remains unresolved, you can refer it to the Local Government Ombudsman.²  In cases where you are still unhappy with the outcome, judicial review may be an option.

[1] Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/contents>; Data Protection Act 1998

[2] Local Government Ombudsman <http://www.lgo.org.uk/>