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Publication - Consultation paper

Patient rights and responsibilities: charter

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The Charter is introduced by The Patient Rights (Scotland) Act 2011, which requires Ministers to publish a Charter setting out a summary of the rights and responsibilities of patients and other relevant people.

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Part 1: Patient rights and responsibilities

This part provides an explanation of your rights and responsibilities when you use the NHS in Scotland.

It also:

- - provides information about relevant targets or expectations which the NHS is committed to meet in Scotland
- - explains what the NHS in Scotland expects from you.

The information in this part is presented under the following headings:

- **Access:** your rights when using health services
- **Confidentiality:** the right for your personal health information to be kept secure and confidential
- **Communication and participation:** the right to be informed, and involved in decisions, about health care and services
- **Respect:** the right to be treated with dignity and respect
- **Safety:** the right to safe and effective care
- **Comments and complaints:** the right to have a say about your care and have any concerns dealt with, and what you can do if you feel your rights have not been respected.

Access: your rights when using NHS services in Scotland

What does this mean for me?

- **You have the right that the NHS services you receive in Scotland are free of charge.** This includes NHS services provided by GP practices, local pharmacies, hospitals or clinics and emergency services in Scotland. There is also a right to free eye examinations by an optometrist who provides NHS services in Scotland.
 - There are some exceptions to this. For example, you may have to pay for some services like dental treatments (in most cases) or if you are not a UK resident.
 - Some people can get help with these costs. To find out more about what you have to pay, the Scottish Government has produced a leaflet called **A quick guide to help with health costs** (HCS2). You can get this from your GP surgery, local pharmacy, optician or dental practice, or on the internet (go to www.scotland.gov.uk).
 - If you are an overseas visitor to Scotland you may have to pay for certain NHS services. You can find more about this in the Overseas visitors section of the Health Rights Information Scotland (HRIS) website (go to www.hris.org.uk) or by phoning the NHS inform Helpline on 0800 22 44 88.
- **You have the right that the NHS services you receive in Scotland take your needs into account.**
 - Your health board is committed to taking account of your needs when providing health services.
 - However, your health board must also consider the rights of other patients, clinical judgement and the most efficient way to use NHS resources in Scotland.
 - You should never be refused access to NHS services in Scotland on the basis of unlawful discrimination against you, because of your age, disability, gender reassignment, marriage, civil partnership, pregnancy, maternity, race, religion or belief, sex, or sexual orientation.
- **You have the right that your local health board will assess the local community's health needs and provide the services it considers necessary to meet them.**
 - Your health board must make informed decisions about how best to share out the resources

it has to meet its area's needs. This means it will not necessarily be able to provide every treatment for every patient.

- **In certain circumstances you have the right to go to other European Economic Area (EEA) countries for state or private treatment that would be available to you through the NHS in Scotland.**
 - Arranging treatment in another EEA country is your responsibility. Before you travel you may need to get approval for this from your doctor or health board.
- **You have the right to request support to access NHS services in Scotland.**
 - If you want to have someone else present at an appointment please let staff know. This could be a carer, family member, partner, friend, or another health care worker.
 - If you need an interpreter or a sign-language interpreter, or other communication support, you may ask if a member of NHS staff can arrange this for you in advance.
 - If you have a clinical need for transport to get to a hospital or clinic appointment, you may ask a member of NHS staff or your health board about the Patient Transport Service.
 - The independent Patient Advice and Support Service (PASS) can tell you about support services available to you. See page 25 for how to contact them.
- **You have the right to be registered with a GP practice.**
 - Your GP is usually your main point of access to health care and services. If you cannot register with your chosen GP practice, your health board can help you find another.
 - You can state a preference for going to a particular doctor within your GP practice. The GP practice will try to comply with any reasonable preference that you state.
 - A GP may be able to remove you from the practice register in some situations, for example if you move out of the practice area or you are physically or verbally abusive to people at the practice.
 - Some people are eligible to register with a local pharmacy to access the Minor Ailment Service or the Chronic Medication Service (or both). To find out more about this, see the leaflets **The NHS Minor Ailment Service at your local pharmacy** and **The NHS Chronic Medication Service at your local pharmacy**. [See Part 3](#).
- **You have the right to start to receive an agreed inpatient or day case treatment (subject to the exceptions set out below) within 12 weeks of agreeing to it. This is called the Treatment Time Guarantee.**
 - Eligible patients who are due to receive planned treatment provided on an inpatient or day case basis can expect to start to receive the treatment within 12 weeks from the date they agree to the treatment. Some examples of treatments include hip or knee replacements, hernia surgery, or cataract surgery.
 - If you do not start your agreed treatment within 12 weeks, your health board **must** explain the reasons for this, and give you information about how to make a complaint. Your health board must also take steps to ensure you start your treatment at the next available opportunity, taking account of other patients' clinical needs.

The Treatment Time Guarantee does not apply to the following services:

- assisted reproduction
- obstetrics services
- organ and tissue transplantation
- designated national specialist services for surgical intervention in spinal scoliosis, and
- the treatment of injuries, deformities or disease of the spine by an injection or surgical intervention.

What does the NHS in Scotland expect from me?

- **You should register with a GP practice.**
 - Your GP is your main point of access to health care and services. If you cannot register with your preferred GP practice, your health board can help you find another.
- **You should attend any GP, dental, optical, hospital or clinic appointments that have been arranged.**
 - If you cannot keep an appointment, let the GP practice, dental practice, optician, hospital or clinic know as soon as possible so that they can offer it to someone else.
 - Be on time for appointments. If you are going to be late, phone and let a member of staff know.
 - If a member of NHS staff (for example a health visitor or community psychiatric nurse) is coming to visit you at home, make sure you are in at the agreed time.
 - Make sure your GP practice, dental practice, optician and any hospital or clinic you are attending has up-to-date information about how to contact you.
- **You should use health services responsibly.**
 - Always try to order repeat prescriptions in plenty of time. You can expect your prescription to be processed efficiently.
 - Use your GP practice or local pharmacy for routine treatment and medical advice. **Only go to your local accident and emergency department (A&E) in an emergency.**
 - If your GP practice is closed and you are too unwell to wait until it reopens, you should phone NHS 24 on 08454 24 24 24 for advice.
 - **If you think your life or someone else's life is in danger, always phone 999 and ask for an ambulance.**

Communication and participation: the right to be informed, and involved, in decisions about health care and services

What does this mean for me?

- **You have the right to be involved in decisions about your own care and treatment.**
 - NHS staff should not make decisions about your care and treatment without involving you in that decision.
 - You can ask for a second opinion before you make a decision about your care and treatment, if you think you need it. Where possible, your request will be met.

- You can ask any question if you do not understand something.
- If you are unable to make a decision for yourself, you should still be supported and encouraged to be involved, as far as you want and are able, in decisions about your care and treatment.
- If you are unable to make a decision for yourself, NHS staff who have to make decisions about your care and treatment may also consider:
 - what is the best clinical option for you
 - evidence of any preference you have stated in the past about how you want to be treated
 - the views of others who are close to you
 - the views of anyone who has legal authority to make a decision on your behalf.
- **You have the right to be given the information you need to make informed choices about your health care and treatment options.**
 - You should be told about the care and treatment options available to you.
 - You should be told what the care or treatment will involve, including the risks and benefits, and what may happen if you do not have it.
 - You can ask for more information if you want to know more.
 - You should be given information in a way you can understand.
- **You have the right to request support when making decisions about your health care.**
 - If you need an interpreter or a sign-language interpreter, or other communication support, you can ask a member of staff to arrange help for you in advance.
 - If you want to have someone else present at an appointment please let staff know. This could be a carer, family member, partner, friend, or another health care worker.
 - If you want someone else to support you or help you give your views, for example an independent advocate, NHS staff can help you arrange this.
- **You have the right to clear communication about your care and treatment from NHS staff.**
 - You can expect NHS staff to communicate clearly and openly with you about your care and treatment
 - This means that NHS staff should check whether you have understood the information you have been given, and whether you would like more information before making a decision.
 - You should be given all the information you need about your medicines, and their possible side effects, in a way you can understand.
 - If you have a long-term condition, NHS staff should make sure you have clear information about your condition in a way you can understand.
 - You should get support to manage your condition. For example, staff should tell you how and when to take your medication, how to control pain, and how to access other services that could help you.
 - You can expect to be given information about support that is available from the NHS in Scotland and other relevant agencies for example local authorities and the voluntary sector, and any follow-on care that is available to you.
 - You can expect to be given information about your care and treatment in a format or

language that meets your needs (for example in audio format or in a language other than English).

- If you have to go on a waiting list for an appointment, test or treatment, you can expect to be told how long you are likely to have to wait.

- You can expect to be told the names of the staff responsible for your care, and how to contact them.

- You can normally expect to see and get a copy of any letters, faxes or emails written by NHS staff about your care and treatment, if you ask for them (in line with the Data Protection Act 1998). You may have to pay for this.

- You can expect to be able to access information and advice on how to give feedback, make comments and raise concerns or complaints about the care you have received and the services you have used.

- **You have the right to accept or refuse any treatment, examination, test or screening procedure that is offered to you.**

- If you can understand the information you are given and are capable of making a decision for yourself about the care or treatment you are offered, then you have the right to accept or refuse any treatment, examination, test, or screening procedure, or to take part in research.

- **If you are the carer of an adult who is unable to make decisions about their health care and treatment without help you can expect to be involved.**

- But you do not have the right to make any final decisions unless you are the person's legal proxy (a "legal proxy" is a person who has been given the power to act on another person's behalf. The most common way of doing so is by power of attorney).

- A legal proxy who has been given the appropriate powers can make medical, welfare or financial decisions for an adult with incapacity. There are different types of legal proxy:

- Someone can appoint a welfare attorney to make decisions about their health care and treatment if they later become unable to do this on their own.
- The court can appoint a guardian with welfare powers to make decisions about a person's health care and treatment on their behalf.
- An intervention order is when a person is appointed by the court to make a one-off decision within a certain period about another person's health care or treatment.

- **If a person is under 16, and the health professional looking after them believes they can make decisions for themselves, they can decide about their own health care and treatment.**

- If you are the parent of a person under 16 who is unable to make decisions for themselves, you can decide about their health care and treatment for them.

- **You have the right to expect your wishes about organ and tissue donation to be respected after your death.**

- If you join the NHS Organ Donor Register, you can expect NHS staff to take account of your wishes.

- **You have the right to be involved, directly or through representatives, in the planning, design and provision of services in your area.**
 - You can expect health boards to make decisions about changes to health services in an open and honest way.
 - Health boards must involve people in the planning and development of services, and in decisions that significantly affect the operation of those services.

What does the NHS in Scotland expect from me?

- **Take some personal responsibility for your own health.**
 - Ask your GP or any member of NHS staff involved in your care for support to help you manage your condition and have a healthier lifestyle.
- **Take an active part in discussions and decisions about your health care and treatment.**
 - If you want or need more information to help you make decisions about the care and treatment that is available to you, ask a member of staff.
 - Please discuss your care and treatment with NHS staff in an open and honest way.
- **If there is anything you do not understand, ask questions.**
 - If there is anything you do not understand about your condition or treatment, ask NHS staff to explain it. Please make sure you understand how to take any medicines you have been prescribed.
 - If NHS staff use words you do not understand, ask them to explain them.
 - Tell a member of staff if you need information in a particular way to meet your needs (for example, in audio or a language other than English).
- **Let NHS staff know about any changes in your health condition.**
 - Share information about anything that may be relevant to your care and treatment.
- **Tell your GP practice, dental surgery, optician and any hospital or clinic you go to if you change your address or phone number.**
 - This is to make sure NHS staff involved in your care can contact you.
- **If you want to become an organ or tissue donor after you die, put your name on the NHS Organ Donor Register.**
 - You should also carry a donor card and discuss your wishes with the people close to you. See page 26 for how to contact the NHS Organ Donor Register.

Confidentiality: the right for your personal health information to be kept secure and confidential

What does this mean for me?

- **You have the right for your personal health information to be kept secure and confidential.**
 - NHS staff must keep your personal health information confidential in accordance with confidentiality laws and your human rights, and must comply with the Data Protection Act 1998.
 - NHS staff should not discuss information about you in a public place.

- You have the right to know how your personal health information is stored, shared and used by the NHS in Scotland.**

 - NHS staff use your information to give you the care and treatment you need and will share relevant information about you with other NHS staff involved in your care where this is necessary.
 - Your personal health information may be given to other people who need to know relevant information about your health - for example, a carer, a home help or a social worker. Subject to certain exceptions (for example a medical emergency) your personal health information will only be given to them and to NHS staff if you have agreed to this.
 - Sometimes the NHS also uses relevant information about your health to help improve NHS services and public health in Scotland - for example to find out how many people have a particular illness or disease. If so, information that identifies you is removed wherever possible. If the NHS in Scotland uses information that does identify you (for example to include it in a disease register), they must explain how and why your information will be used.
 - You may give consent to your information being used or shared in different ways - for example:
 - by saying that you agree or signing a form, or
 - by not objecting or disagreeing if you are told the information will be shared.
- NHS staff should not give information about you to organisations such as employers or the media without getting your permission.**

 - Sometimes the law allows the NHS in Scotland to share your information without your permission where disclosure can be justified in the public interest, to protect individuals and communities from serious harm (for example to prevent the spread of a communicable disease or to investigate a serious crime).
- You have a right to say if you do not want your personal health information to be shared in particular ways, and to expect that the NHS in Scotland will not normally pass on your personal health information without your permission.**

 - If you do not want your personal health information to be used or shared, tell a member of staff providing your care. If you do this, the NHS in Scotland has to limit how it uses your information where possible. The NHS in Scotland may, however, be required to share information in an emergency or if the law says it must even if you do not consent.
 - You should tell staff if you want your information to be shared with family members or a carer.
- You have the right to access your own health records.**

 - If you want to see or get a copy of your health records, write to the practice manager at your GP practice or the records manager at the hospital or other NHS organisation that holds your health records.
 - You may have to pay to see your records, but you do not need to give a reason for wanting to see them.
 - After you give NHS staff enough information to identify you and your health records, and pay any fee in line with the Data Protection Act 1998 you will normally receive the information

within 40 days.

- NHS staff should explain any words you say you do not understand. You should say if you would like your records to be given to you in another format that meets your needs. This will be done wherever possible.

- **If you care for an adult who cannot make decisions for themselves, or cannot tell others their decisions, the law allows you to see their records, only if:**

- they have given you a welfare power of attorney, or
- a court has appointed you guardian with welfare powers or empowered you to do so under an intervention order.

What does the NHS in Scotland expect from me?

- **Help to keep your health records accurate and up to date.**

- Tell your GP practice, dental practice, optician, and any hospital or clinic you go to if you change your name, address or phone number.
- Let NHS staff know if you think any information in your health records is incorrect.
- Tell your GP practice, dental practice, optician, and any hospital or clinic you go to if you do not want your personal health information shared in a particular way.

Respect: the right to be treated with dignity and respect

What does this mean for me?

- **You have the right to be treated as an individual and with dignity and respect.**

- When using NHS services and receiving NHS care in Scotland, you can expect to be treated with dignity and respect in line with your human rights.
- You have the right to ask for your needs and preferences to be taken into account. Health boards are committed to taking such matters into account wherever they can. However, your health board must also consider the rights of other patients, clinical judgement and the most efficient way to use NHS resources in Scotland.
- In emergencies, decisions need to be made quickly. However, where it is possible, you can expect to be given time to make up your mind about any examination or treatment, without pressure from NHS staff providing your care.
- You have the right to expect NHS staff to respect your right to confidentiality, except where the law requires or authorises them to disclose information. See the Confidentiality section for more information.

- **You have the right not to be unlawfully discriminated against because of your age, disability, gender reassignment, marriage, civil partnership, pregnancy, maternity, race, religion or belief, sex, or sexual orientation.**

- You can expect all staff to respect your views and preferences (provided that these are lawful).

- **You can expect your right to privacy to be respected when receiving health care.**

- When NHS staff examine you, you can expect this to be done in a private place that is

appropriate to the circumstances. This may not always be possible (for example, in an emergency).

- You can say if you do not want students to be present while you are examined or treated.
- If you have to stay overnight in a hospital, you can usually expect to be in a single- sex room or ward. However, this may not be possible if you need intensive care or in an emergency.

What does the NHS in Scotland expect from me?

- **You should treat NHS staff, and other patients, their carers and family members with dignity and respect.**
 - You must not be violent or aggressive towards NHS staff or other patients, their carers and family members. Violence includes verbal or written abuse and threats, as well as physical assaults.
 - Racial, sexual or any other kind of harassment or abuse is unacceptable.

Safety: the right to safe and effective care

What does this mean for me?

- **You have the right to expect that any care and treatment you receive is provided by properly qualified and experienced staff.**
 - You can expect that everyone working in the NHS in Scotland has the appropriate skills and training for their job.
 - The care and treatment you receive must be suitable for you, carried out lawfully and based on recognised clinical guidance and standards where these exist.
 - You can expect that any medicines your doctor prescribes have been approved for use by the NHS in Scotland.
- **You have the right to expect that the treatment you receive is provided in an appropriate, safe and clean environment.**
 - You can expect that the care you receive will be provided as safely as possible.
 - You can expect health care premises to meet standards of hygiene agreed by the NHS in Scotland.
 - NHS staff should always wash their hands before they examine you.
- **You have the right to expect that your personal health information is kept accurate and up to date.**
 - The NHS in Scotland will keep accurate and up-to-date records of the care you receive.
 - If you need to move from one care provider to another (for example, from hospital to care at home), information about the care you need will be shared with any relevant care providers if you have given your permission for this. This means there should be no interruption to the care you need. See the Confidentiality section for more information.

What does the NHS in Scotland expect from me?

- **You should follow any advice you are given on medication and treatment.**
 - Tell staff if you do not understand something. If you have any questions, ask.
 - Tell staff if you are allergic to any medicines or if you have experienced any side effects after taking a particular medicine.
 - Finish any course of agreed treatment. If you decide to change or stop your treatment, discuss this with your doctor or pharmacist first.
 - Do not take any medicine that is out of date or prescribed for someone else. Give any out-of-date or unused medicines to your pharmacist to get rid of safely.
 - Store medicines safely and out of children's reach.
 - If you go into hospital, tell staff about any medicines you are taking.
- **You should help to prevent the spread of infection in places where you or someone you are visiting receive NHS care in Scotland.**
 - Always wash and dry your hands before visiting a hospital ward, particularly after using the toilet. Use the hand gel provided at the ward door or at the bedside.
 - If you or someone you live with has a cold or diarrhoea or feels unwell, try not to visit anyone in hospital until you are better.
 - If you visit someone in hospital, do not sit on their bed. Keep the number of visitors as low as possible at any time. Never touch dressings, drips or other equipment around the bed.
 - Ask ward staff for advice before you bring food, drink or flowers for someone you are visiting in hospital.
- **You should raise any concerns you have about the safety, effectiveness or cleanliness of services that may affect your care.**
 - If you think a member of staff has forgotten to wash their hands before examining you, ask them to do this.
 - If you think NHS premises are not as clean as they should be, let a member of staff know. If you are in hospital, you can ask to speak to the ward sister or charge nurse about this.
 - You can report your concerns to the Healthcare Environment Inspectorate. See page 26 for how to contact them.

Comments and complaints: the right to have a say about your care and have any concerns dealt with

What does this mean for me?

- **You have the right to give feedback, make comments, or raise concerns or complaints about the health care you receive.**
 - Your relatives or carers may also give feedback or comments, or raise concerns or complaints.
 - You should be given information and advice on how to give feedback and comments or raise concerns or complaints about the care you have received and the services you have used. And you should be given information about how any feedback, comments, concerns and complaints you make will be handled.
 - You may ask to have an independent advocate to help you give your views. NHS staff can

arrange this for you.

- In certain circumstances, health boards must offer and provide alternative dispute resolution services (for example, independent mediators who can help people reach an agreement).

- **You have the right to be told the outcome of any investigation into your concerns or complaints.**

- You can expect any complaint you make about NHS services in Scotland to be dealt with efficiently and to have it properly investigated.

- You can expect to be told what remedial action has been or will be taken as a result of any complaint you make.

- You have the right to expect the NHS in Scotland to take your feedback into account in order to improve services.

- **You have the right to independent advice and support in making a complaint.**

- The independent Patient Advice and Support Service (PASS) can help you with this. See page 25 for how to contact them.

- **You have the right to take your complaint to the Scottish Public Services Ombudsman (SPSO) if the NHS in Scotland has fully investigated your complaint and you are not satisfied with the response.**

- If the NHS in Scotland has fully investigated your complaint and you are still not happy, you can ask the SPSO to consider your complaint further. See page 26 for how to contact them.

- **You have the right to seek compensation if you have been harmed by negligent treatment.**

- Depending on the individual circumstances, you may be entitled to compensation if you have been harmed by a negligent act of the NHS in Scotland.

- Negligent treatment is when care provided falls below the reasonable standard to be expected in the circumstances, and causes physical or mental injury or death.

If you think you may be entitled to compensation and want to make a claim you should seek independent legal advice. The independent Patient Advice and Support Service (PASS) may be able to tell you where to get information about specialist solicitors who handle negligence claims.

- **You have the right to seek judicial review if you think you have been directly affected by an unlawful act or decision of an NHS body in Scotland.**

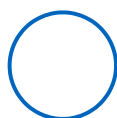
- Judicial review is a process that allows you to challenge a decision made by the NHS because you think it is unlawful. It looks at how the decision was made rather than what was decided.

- As a general rule, you have the right to seek judicial review if your personal interests are affected by the action or decision you wish to challenge.

- If you want a decision to be judicially reviewed, you should seek independent legal advice.

What does the NHS in Scotland expect from me?

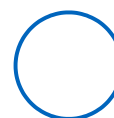
- **You should give positive or negative feedback about the care and treatment you have received or about the health service generally. This helps to improve services for everyone.**
 - If you have feedback, comments, or concerns about your health care, you can:
 - speak to a member of NHS staff
 - take part in NHS surveys
 - put your comments in a suggestion box (if available)
 - use the feedback forms on health board websites
 - use the Better Together website to share your experiences with the NHS and people across Scotland (go to www.bettertogetherscotland.com). Some health boards do not use the Better Together website but have their own ways of enabling people to share experiences.



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