

## YOUR CHOICES IN THE NHS: RIGHT TO CHOOSE EXPLANATION

### References:

[New LMC Guidance: Shared Care and NHS Right to Choose – Humberside LMC](#)

<https://www.gov.uk/government/publications/the-nhs-choice-framework>

<https://www.nhs.uk/using-the-nhs/about-the-nhs/your-choices-in-the-nhs/>

The Practice has been receiving a lot of queries and requests regarding ‘The Right to Choose’ clause in the NHS constitution for England. This is particularly for those seeking assessment and diagnosis for potential neurodiversity conditions. The following is an explanation of the mechanism.

The Right to Choose is **not a specialist pathway for ADHD or autism**, nor a neurodevelopmental-specific funding stream.

It has become **widely used** for ADHD and autism assessments because:

- Local NHS services often have **very long waiting lists**.
- Some **independent providers** have NHS contracts allowing them to deliver these assessments under Right to Choose.
- Patients can therefore access a faster assessment **while remaining within NHS funding**.

The Right to Choose is a **legal right**, embedded in the **NHS Constitution for England**, that applies to **all NHS patients** when they are referred for their **first outpatient appointment**.

It is part of **patient choice legislation**, **NOT a neurodiversity policy**.

Right to Choose is a **funding and commissioning mechanism** within the NHS that allows the NHS to pay an **alternative NHS-commissioned provider** for a service **outside the patient’s local area**.

When a GP refers a patient under Right to Choose:

- The referral is funded by the **Integrated Care Board (ICB)** as NHS activity.
- The chosen provider invoices the NHS under their **NHS Standard Contract**.
- There is **no cost to the patient**, if the provider is NHS-contracted.

This is why Right to Choose is considered a **funding pathway** as well as a **patient right** — it allows the flow of NHS funding to a non-local provider chosen by the patient.

The Right to Choose **does not**:

- Guarantee funding for **private providers** who do not hold an NHS contract.
- Apply to **secondary or subsequent** appointments (only to the first outpatient appointment).
- Override **clinical judgment** — the GP must still agree that a referral for assessment is appropriate.

- Include **services that are not commissioned by the NHS** in the local area or are delivered under specific local pathways (e.g., some neurodevelopmental services for children).

If You Already Have a Referral to a Local Provider

Once a **referral has been made and accepted by a local NHS provider** (for example, your local NHS ADHD or autism service), **your Right to Choose normally ends for that specific referral.**

Why?

The NHS Right to Choose applies **only at the point of the first referral** — that is, when your GP first refers you for a service.

Once that referral is accepted by a local service, you are considered to have “chosen” that provider (even if it was automatically assigned through the local pathway).

You can ask your GP to **withdraw the current referral** and make a **new referral under Right to Choose** if:

- You have not yet had your first appointment with the local provider, **and**
- You prefer to use a different NHS-approved provider (for example, one offering faster access under Right to Choose), **and**
- The provider you want **has an NHS contract** to deliver ADHD or autism assessments.

The GP can then cancel the existing referral and send a **new Right to Choose referral** to your chosen provider.

You Cannot Use Right to Choose:

After you have already **had your first appointment** with the local service.

To switch part way through assessment or treatment (e.g. moving to a private provider for the same referral).

To move to a **private-only clinic** that does not hold an NHS contract.

When a GP Can Refuse

A GP can refuse a Right to Choose referral only if:

The referral is not **clinically appropriate** (e.g. there is no evidence of ADHD/autism symptoms warranting assessment). Equally, **if the provider states you do not have a condition** after assessment, you cannot be referred to another provider via the right to choose pathway.

The **provider does not hold an NHS contract** for the service.

The patient has **already been seen** by another provider for the same condition (Right to Choose applies only before the first appointment)

The request is for a service excluded from Right to Choose, such as emergency care, maternity services, or urgent mental health crisis care.

In the case of neurodiversity assessments, Schools and other organisations cannot make the referral under the Right to Choose, only a GP can. However, they may not make you aware that this is just a funding pathway and not a clinical referral pathway.

If you seek a referral under the Right to Choose:

1. Firstly, understand what The Right to Choose means and what it is not
2. Do your research – does the provider have an NHS- approved contract,-do they offer NHS Right to Choose services.
3. Is the service clinically appropriate and would the GP normally refer you for that type of service.
4. Provide the GP with a request in writing with all the information necessary- provider details, including if an NHS Right to Choose provider, any referral forms and pre-assessment forms