




INDEPENDENT HEALTHCARE SECTOR
COMPLAINTS ADJUDICATION SERVICE

Making a complaint about
private and independent healthcare

Patients' Guide to the ISCAS Code

ENDORSED BY

 **the patients association**



Independent healthcare providers (IHPs) take pride in offering patients some of the best available healthcare. However, there may be times when IHPs do not meet the high standards of care and service that they set out to do. If you are not satisfied with the care and service you have received at an IHP that subscribes to ISCAS, it is your right to have your concerns investigated and to receive a full reply in line with the ISCAS Code.

The term 'IHP' covers hospitals, clinics and independent doctors that provide services paid for directly by patients (self-funded) or by an insurance scheme. In some instances, it may also include private patient units (PPUs) in NHS hospitals, where they are subscribers to ISCAS.

If you are thinking of making a complaint about care you or a friend or relative has received from an IHP that subscribes to ISCAS, this guide tells you about the complaint procedure and gives you advice about how to achieve a satisfactory response.



The ISCAS Code

The ISCAS Code of Practice for Complaints Management provides the good practice standards set by ISCAS for subscribing IHPs - these are IHPs that pay an annual subscription to ISCAS to be covered by the scheme. To find out whether an organisation is covered by the ISCAS Code, go to www.iscas.org.uk

This guide refers to pages in the Code where you can find out further information, as well as specific standards - you can access a copy of the Code via the ISCAS website.

Other sources of help and information

It is your right to notify the appropriate healthcare regulator of your concerns - page 4 of the Code details the regulators for each of the four countries in the UK. Except for Scotland, the healthcare regulators do not investigate individual complaints, but they gather feedback from the public as part of the information they hold on each IHP. ISCAS shares details of all adjudication decisions regarding IHPs in England, Wales and Scotland to the healthcare regulators in these countries. This is done to support the quality improvement of services.

ISCAS and the Patients Association

The Patients Association is an independent charity, which believes that everyone should be able to rely on high quality health and social care services when they are in need.

The Patients Association wants a culture where patients, their families and carers are thoroughly engaged in the provision of care services, where everyone is empowered to raise concerns, and where the system is transparent, accountable, and learns from mistakes.

Its helpline advises on a range of health and social care issues, helping to give callers the information and guidance to take their own action. There are a number of downloadable resources covering a wide range of issues available from their website www.patients-association.com.

The Patients Association gathers evidence of patients' views from both their helpline and wider feedback which it uses to speak up for change with decision-makers in government, the NHS and beyond. Its national and local projects, reports and training also help to develop patient involvement and service improvements. The helpline number is 020 8423 8999, or you can email: helpline@patients-association.com

Question 1:

Are your concerns covered by the ISCAS Code?

If you're thinking about making a complaint, the first question to ask is whether the service you want to complain about is covered under the ISCAS Code. For more details see page 3 of the Code.

What do you want to complain about?	Does the ISCAS Code cover it?
NHS services	Not covered - for more information on complaining about NHS-funded care you can contact the Patients Association helpline on 020 8423 8999 or email them at helpline@patients-association.com or see NHS Choices information, including on local Independent Advocacy Services: http://www.nhs.uk/chq/pages/1084.aspx?categoryid=68
Self-funded patients	Covered - complaints regarding treatment provided by IHP subscribers are covered by the Code.
Treatment paid for by a private medical insurance scheme	Covered - complaints regarding treatment provided by IHP subscribers are covered by the Code.
Private medical insurance (PMI) products or financial disputes	Not covered - complaints about the product should be taken up with the PMI provider. The Financial Ombudsman Service is the organisation to go to where you remain dissatisfied, and if you're seeking a refund or money owed to you then you should make a claim to the courts.
NHS Private Patient Units (PPUs)	Possibly - if you received care in an NHS PPU, your complaint may be covered by this Code if the NHS Trust that is responsible for the PPU is a subscriber to ISCAS. See ISCAS subscribers directory: www.iscas.org.uk/index.php?option=com_sobipro&Itemid=648&lang=en&sid=5
Doctors and other healthcare professionals with practising privileges	Covered - if they are working within a subscribing IHP, practising privileges requires the self-employed doctor to follow the IHP's policies.
Clinical negligence	Not covered - if you believe the healthcare professional has breached professional standards you should contact the professional regulator. If you are seeking compensation, it may be appropriate to seek legal advice.
Mental Health Act	Not covered - if you wish to complain about breaches of the provisions of the Mental Health Act then you should approach the relevant healthcare regulator for your country.
Unlawful Acts	Not covered - if you wish to complain that an individual or organisation has broken the law you should take the matter to the police.

Question 2: What do you want to achieve?

Before you make a complaint, it is helpful to think about what you want to achieve.

What do you want to achieve?	Is it achievable under the ISCAS Code? If so, what are the relevant standards?
An acknowledgement that something went wrong	Yes - standard 5 of the Code expects IHPs to demonstrate openness and transparency and to demonstrate candour where something has gone wrong.
An explanation	Yes - standard 15 of the Code expects IHPs to give an open and honest explanation of how the organisation has investigated the matter and what it has found.
An apology	Yes - standard 17.1 of the Code expects IHPs to offer a sincere apology when things go wrong.
Action to put things right	Yes - standard 17.2 of the Code expects IHPs to take action to put things right.
For the organisation to learn from your complaint	Yes - standard 17.3 of the Code expects IHPs to share details of how the organisation has learnt from the complaint, including any changes made as a result.
Goodwill offers	Yes - standard 17.4 of the Code expects IHPs to make a gesture of goodwill offer, where this is appropriate, and they may refer to the ISCAS Goodwill Payments Guide.
Compensation and refunds	No - compensation is not achievable under the Code: the term 'compensation' implies that there is a duty on the IHP to compensate you for something that went wrong, and to prove that you need to take the matter to the courts. Refunds are also outside the scope of the Code and are a matter for the courts.
Revision surgery	No - there is no requirement on IHPs to offer revision surgery, however this may be considered to be relevant as part of standard 17.2, which expects IHPs to take action to put things right.
To have the registration of a doctor or any other health professional suspended	No - however, standard 16 of the Code expects IHPs to refer the matter to the relevant professional regulator and take steps to protect patients where it finds that a health professional has not met professional standards and this may impact on patient safety.
To prove that clinical negligence has occurred	No - however, standard 6 of the Code expects IHPs to remind complainants of their right to seek advice where their complaint raises issues of clinical negligence and the complaints process should continue for other matters of complaint.

Question 3:

Is there a time limit for making a complaint?

It is best to make your complaint as soon as possible, as memories will be fresher and it will be easier to investigate the facts. You should normally make your complaint within six months of the incident you are concerned about. The IHP may be willing to investigate complaints after this time where there is a realistic opportunity of conducting a fair and effective investigation and if you have a good reason why you could not act sooner (for example, if you were unaware of the matter, if you were unwell or grieving).

Question 4:

Can I complain on behalf of someone else - or can they complain on my behalf?

If you feel anxious about making a complaint yourself, you can ask a relative or friend to do so on your behalf. The IHP will ask the friend or relative to obtain your permission in writing. By doing this, you are waiving your right to confidentiality of your own clinical information, by sharing this with the person acting on your behalf.

Question 5:

Can I access my health records & how can I be assured ISCAS will handle my personal information safely?

Health records are extremely personal and sensitive. They can be held electronically or as paper files, and are kept by a range of different health professionals both in the NHS and the private sector. The Data Protection Act gives you the right to see your health records by making a Subject Access Request. Further information is available from the Information Commissioner's Office. <https://ico.org.uk/for-the-public/personal-information/>

ISCAS is registered with the Information Commissioner's Office and manages data according to national guidelines. In order to review your complaint ISCAS will require a copy of your medical records from the IHP. We will seek your written consent to obtain your medical records and relevant information regarding the complaint. If you do not give permission to access a copy of your health records this will impact the Adjudicator's ability to effectively review your complaint. Access to patient records is restricted to ISCAS staff, the Independent Adjudicators and any independent medical experts engaged by ISCAS. Patient records are stored securely and are retained only for so long as is necessary to complete our work, including follow up analysis, which is usually no more than one year after completion of an Independent Adjudicator's decision. Thereafter records are either destroyed securely or are returned to the healthcare provider.



Question 6: Where do I start?

Complaining can be stressful, so the aim is to try and sort out any problems as quickly and informally as possible. If your complaint is responded to effectively when you first raise your concerns, then it is unlikely that matters will need to be escalated through stages 2 and 3.

The ISCAS Code sets out a three-stage process. Each stage is underpinned with standards:



Before you make a formal complaint, ask the IHP for a copy of their complaints procedure. If you raised your concerns with a member of staff in person, make a note of when you did this, who you spoke to and how the matter was dealt with. It is useful to have a record of this if you need to take the matter further later. If you do not wish to speak to a member of 'frontline' staff, or if you are unhappy with how they dealt with your concerns, you can take your complaint to someone more senior within the organisation, such as the unit Manager or Clinical Lead.

The IHP's complaints procedure should provide details of how complaints can be made, and how complaints submitted by email or text or using other media will be handled. Standard 12 of the Code expects IHPs to respond in writing to formal complaints, however they are made, and to make a written record of any face-to-face or telephone discussions about a complaint.

Question 7: What should I include in my initial letter of complaint?

You do not need to write a long and very detailed letter, but you should include all the points you wish to address. You should tell the IHP the following points as clearly as possible in order to help them manage the complaint effectively:

- Who or what has caused your concerns. Try to make clear the most important points. If you are complaining about a member of staff, give their name and position (if you know it).
- Where and when the events took place.
- What action you have already taken, if any.
- What outcome you want from your complaint.

The IHP should send you a written acknowledgement of your complaint within three working days of receiving it (standard 13). In some instances, a full response can be sent within five working days, in which case the IHP is not expected to send you a written acknowledgement in addition.

Question 8: Should I keep a written record?

It is important for you to maintain an accurate record of events. Keep a record of:

- All your papers and correspondence relating to the complaint.
- All the telephone calls you have had, including the date of the call, who you spoke to and what the call was about.
- Any visits or meetings, together with details of what was discussed.

Question 9: What should I do if I am offered a meeting?

The Code supports and encourages face-to-face meetings. Before agreeing to attend a meeting, it is a good idea to discuss arrangements for the meeting with the staff member who invited you and to give your views on how you would like it to be conducted:

- Ask what form the meeting will take so that you are well prepared.
- Ask who will be at the meeting, and who will lead it.
- If there is someone you do not want to see, let the staff member organising it know (for example, some people may not wish to meet the person who they are complaining about, whereas others may feel it is important for them to be present).
- Ask where the meeting will be held and how long it will last.
- If you have any special challenges for moving, seeing or hearing make them known to the staff member organising the meeting.
- If you have particular questions you would like answered, tell the staff member in advance so that they can seek out the information or make sure that the right staff are at the meeting. It is a good idea to bring a copy of the questions to the meeting so you can remember what they are.
- Standard 12 of the Code expects IHPs to make a written record of any meetings with complainants. Ask for a copy of these to be sent to you. Also make notes yourself as it is easy to forget what has been said.
- Inform the IHP if you plan to bring someone with you. It can be helpful to have someone with you to give you support and to take notes. It is also useful to be able to talk to them afterwards to go over what was said and to think about what to do next. Make sure they know the questions you want to ask and what you want to achieve.

Question 10: How long should I wait for a response?

After the meeting, unless further actions are needed to investigate your complaint further, the IHP should send you a full, written response to your complaint within 20 working days. Where the investigation is still in progress, you should receive a letter explaining the reasons for the delay (standard 14). Sometimes it can take several weeks to carry out a full and thorough investigation, particularly if your complaint is very complex or covers an extended time period. In such situations, the IHP should let you know the reasons for the delay and tell you when it anticipates being able to respond. In any event you should receive an update letter, as a minimum, every 20 working days pending a conclusion being reached.

The ISCAS Code expects complaints to be concluded within 3 months at stage 1, unless there is good reason to explain a longer timeframe.

Question 11: What are my options if I'm not satisfied with the response to my complaint?

The full response to your complaint at stage 1 should tell you what to do next if you are not satisfied. If you wish to escalate your complaint to stage 2, you should do so in writing, within 6 months of the final response at stage 1 (standard 18).

Question 12: What does a stage 2 complaint review involve?

The Code expects IHPs to have arrangements in place by which to conduct an objective review of your complaint and the way it was handled at stage 1. Normally the complaint review at stage 2 will be conducted by a senior member of staff who has not been involved in the handling of the complaint up to that point and is not involved in the daily operation of the hospital/clinic. They are expected to review the documentation relevant to your original complaint and may include interviews with relevant staff (standard 22). They may invite the hospital, clinic or staff that responded at stage 1 to make a further response, by taking a further look at a specific matter (standard 24). They may decide to invite you to a meeting with the staff member who responded to your complaint at stage 1 (standard 25).

The person conducting the complaint review is expected to send you a full, written response on the outcome of the review within 20 working days. Where the investigation is still in progress, you should receive a letter explaining the reasons for the delay (standard 26). The aim is to complete the review at stage 2, in most cases within 3 months.

Question 13: What if I'm not satisfied with the response to my complaint at stage 2?

If you are not satisfied with the complaint review at stage 2, you have the right to refer the matter to stage 3 independent external adjudication. You need to do this within 6 months of receiving the final response at stage 2 (standard 27). If it is longer than 6 months you may not be able to access the adjudication service.

If you wish to escalate your complaint to ISCAS, you should do this in writing (the address is given at the end of this guide). Your letter should include the following:

- Details of your complaint and your reasons for requesting adjudication. You can make use of the letter you wrote at stage 1 if that is helpful, but be sure to highlight the aspects of your complaint that remain unresolved (some of your concerns may have been resolved at stage 1 or stage 2). Stage 3 adjudication will not consider 'new' issues that have not previously been raised with the IHP, with the exception of concerns raised about the way the IHP has handled the complaint, which may not surface until after a response has been made at stage 2 (standard 35).
- Copies of all documents, correspondence and/or clinical records that you wish the Independent Adjudicator to consider - please do not staple documents together.
- What outcome you would like to achieve. See Question 2 on page 5, for prompts to help you think through what you want to achieve, and whether it is achievable under the ISCAS Code.



Question 14: What happens at stage 3?

ISCAS will provide a written acknowledgement to you within 3 working days of receiving your request for independent external adjudication (standard 29). It will then write to the IHP to advise that you wish to escalate your complaint. The IHP will have 10 working days to object, where relevant, for example because the earlier stages of the process have not yet been exhausted, or because one of a few specific grounds apply (these grounds are set out under standard 32, page 11). In most cases complaints proceed to stage 3 without any objection from the IHP.

Once ISCAS has gained your consent for the IHP to provide all your case records and clinical records to ISCAS (standard 33), it will assign an Independent Adjudicator to your complaint. ISCAS retains a pool of Independent Adjudicators (IAs) who are independent of the IHPs. The Independent Adjudicators have a range of experience, including in health policy, health professional standards, complaint handling, consumer policy and regulation. ISCAS looks for adjudicators with the skills and competencies required for the role, which include demonstrable integrity, the ability to reach considered and unbiased decisions affecting other people, and impartiality. The Independent Adjudicators serve the public interest, by providing a fair, transparent, well-reasoned, impartial service.

The Independent Adjudicator will send you a letter to confirm that they have received your complaint. They will then compile a chronology of events and identify the main points ('key heads') of your complaint. The Independent Adjudicator will write to you setting out their understanding of your complaint and whether expert clinical opinion will be required. Expert opinion is most likely to be needed when your complaint is about complex clinical matters. You will have an opportunity to draw attention to anything the Independent Adjudicator may have overlooked or misinterpreted about your complaint (standard 45), and also to see the questions the Independent Adjudicator plans to ask an expert, where required (standard 47).

The Independent Adjudicator will keep you updated with progress, at a minimum, every 20 working days (standard 48). ISCAS aims to complete most of its adjudications within 3-6 months, and to complete 98% within a year.

The Independent Adjudicator will decide to uphold or not uphold each aspect of your complaint. They have the discretion to award a goodwill payment up to a limit of £5,000, in accordance with the ISCAS Goodwill Payments Guide (standard 52). The Independent Adjudicator may highlight points of learning for the IHP and advise the organisation to share with you details of how it has learned from your complaint (standard 51).

Question 15:

Is Independent Adjudication right for me?

It is important that you are aware of the following principles that underpin stage 3 Independent Adjudication, which you must accept as a condition of proceeding to this stage:

- The Independent Adjudicator's decision will be the final resolution of all the matters you have raised in your complaint, and it brings the three-stage complaint process to a close.
- The Independent Adjudicator's decision, although final in terms of the complaints procedure, does not affect your statutory rights (including your right to seek a legal remedy).
- There is no guarantee that the Independent Adjudicator will uphold any monetary offer (goodwill gesture) made at stage 1 or 2 - everything will be considered afresh and you may be offered less at stage 3 or nothing at all.
- There is no appeal of the decisions reached by the Independent Adjudicator - although you can complain if you believe that ISCAS or the Adjudicator failed to carry out the procedure of adjudication properly (i.e. according to the Code). For further details see page 15 of the Code.
- Your costs of independent adjudication are met by the IHP - you will not be expected to pay anything to participate in the process.

Question 16:

How can I find out more?

You can obtain a copy of the complaints procedure from the IHP where you, or a friend, were treated and this will identify who to speak to and where to obtain more information. You can also download a copy of the ISCAS Code of Practice for Complaints Management from: www.iscas.org.uk or request a copy by contacting ISCAS at the details provided below.

To find out more about whether ISCAS can help you, please do get in touch.

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