

**Operating Protocol between the Care Quality Commission & the
Independent Healthcare Advisory Services (IHAS)**

**Management of complaints raised about IHAS member units with the
Care Quality Commission**

Purpose

This Protocol is intended to summarise the arrangements for the investigation of concerning information by the Care Quality Commission (the Commission) where they arise from treatment provided in ISCAS member hospitals. The Commission defines 'concerning information' as information relating to a complaint, concern or allegation about a service currently registered with the Commission, or an organisation providing services that should be registered with the Commission.

The Commission encourages and welcomes the receipt of concerning information as it can be valuable in the regulation of registered providers. It should be noted that the Commission does not provide any form of arbitration or adjudication service and strictly limits its involvement with complaints to its ongoing monitoring of organisations against the Health and Social Care Act 2008 and related Regulations.

ISCAS operates a voluntary Code of Practice including an independent external adjudication system for the review of complaints against its members; the independent Sector Complaints Adjudication Service (ISCAS). ISCAS is administered and managed by the Independent Healthcare Advisory Services (IHAS), a division of the Association of Independent Healthcare Organisations. In its strategy for 2013-2016, the Commission recognises the importance of working with ISCAS both in explaining the roles of each organisation and in sharing information on complaints.

In a similar way to understanding NHS complaint resolution by the Parliamentary Health Service Ombudsman, ISCAS will share with the Commission information about the outcome of complaints through its own service. In addition, both organisations acknowledge that the Commission may wish to be involved where the facts suggest that HSCA and related Regulations may not be fully met, or where they raise a question as to the fitness of any registered manager or provider.

The Commission will find appropriate ways to signpost the public to ISCAS. Whilst the Commission will not endorse or promote ISCAS, as it is an independent system outside of the Commission's management, its value as an alternative route in the resolution of complaints is recognised and should, therefore, be brought to the public's attention. The Commission is also aware

of, and notes, the absence of any similar resolution mechanism in the independent sector for non-ISCAS members.

Background

ISCAS Code of Practice for Handling Patients' Complaints – Regulation 23(1)

All ISCAS members have in place a complaint procedure that reflects the ISCAS Code of Practice for handling complaints, which has three stages. ISCAS expects that its members will work within the spirit of this Code of Practice as well as within its specific provisions. Adherence to the standards is assessed by the Independent Adjudicator and any non-adherence would be brought to the attention of the ISCAS Governance Board and Secretariat. The ISCAS Code includes monitoring of members to comply with the Code and how ISCAS manages issues of non-compliance.

The ISCAS Code is in line with the requirements of HSCA and related Regulations that underpin the Commission's regulatory framework for care provision in England. Similar structures are in place in Wales and Scotland.

Procedure

Complaints referred to the Commission that have not been through the ISCAS Code of Practice for Handling Patients' Complaints

Should the Commission receive concerning information against an ISCAS member that has not been through stages one and two, CQC will, in normal circumstances, refer the informant back to the ISCAS member to complete the stage 1 and stage 2 processes. Informants may wish to contact the Commission again once these processes are completed to bring the detail of the matter to their attention.

Where the Commission receives concerning information about a complaint handled through stages 1 and 2, but NOT through stage 3 the appropriate CQC contact will signpost the informant/complainant to the ISCAS service by putting them in contact with the ISCAS Secretariat. It is noted that the Commission may wish to monitor the review of any complaint where the facts suggest a breach or potential breach of any Regulation, or raise a question as to the fitness of any Registered Manager or Provider.

Complaints referred to the Commission that have been through ISCAS.

Should an informant refer their case to the Commission after having been through ISCAS, it means that the complainant and hospital/unit have gone through the following process:

Stage 1 – Local Resolution

The ISCAS member has attempted to resolve the matter with the complainant directly, normally through arranging a face-to-face meeting and through subsequent correspondence.

Stage 2 – Internal Appeal

The complainant has remained dissatisfied with the ISCAS member's stage 1 attempts to resolve the complaint and has taken it to the designated senior officer (or his/her nominee) of the hospital group, or in the case of an individual (non-chain) hospital this will normally have involved a non-executive director or trustee.

The appointed person has considered the complaint and undertaken a review of the documentation, any correspondence and the handling of the complaint at hospital/unit level. This may have included seeking other professional or technical advice from internal or external sources to better understand the issues raised. It may also have included a meeting with the patient or their authorised representative.

Stage 3 – ISCAS Independent External Adjudication

The informant has remained dissatisfied with the response from the senior officer of the ISCAS member at stage 2. ISCAS assigns an adjudication case to the adjudicator who is independent of the ISCAS member organisation and who is appropriately skilled for the role. The adjudicator will determine the case and make a decision using a number of resources such as commissioning a clinical and technical expert or requesting additional information from either party. The informant will have received an adjudication decision explaining the reasons for the decisions which may or may not uphold the heads of complaint.

Therefore in the case of a complainant referring their case to the Commission after having been through ISCAS, *the following procedure should apply:*

The Commission retains its statutory power to investigate *all* concerning information as part of its ongoing monitoring of organisations against the Health and Social Care Act 2008 and related Regulations.

NHS patients treated in the independent sector

Complaints relating to NHS patients treated in an IHAS member hospital under contract to the NHS are, unless otherwise agreed with the NHS referrer, handled according to the requirements of the NHS Complaints procedure.

The NHS procedure calls for local resolution initially, so complaints are initially handled by the IHAS member hospital concerned - Stages 1 & 2 of the IHAS Code. Where an NHS patient remains dissatisfied, the NHS referrer is advised and the complaint is then taken forward through Stage 2 of the NHS Complaints procedure.

What this means to patients, whether NHS or private, is that a local resolution is the first stage of the Complaints Procedure. That is first, the Hospital, and (if resolution has not been possible at that level); second, the appropriate higher authority such as a Managing Director or Board of Trustees. The NHS complaint procedures have only 2 stages and NHS patients may refer their complaint to the Parliamentary and Health Service Ombudsman if a local resolution is unsuccessful. Patients not funded by the NHS have 3 stages, with stages 1 and 2 being a local resolution, and are able to access the stage 3 ISCAS. However if the NHS referrer wishes to use the Stage 3 process of ISCAS then this can be arranged.

Signed: <i>T. Ward</i>	Signed: <i>Sally M. Taber</i>
TOM WARD	SALLY TABER
Head of Intelligence and Information Management	Director, Policy and Regulatory Affairs
On behalf of the Care Quality Commission	On behalf of the Independent Healthcare Advisory Services
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