

ISCAS Template Complaint Policy

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Owner: Independent Sector Complaint Adjudication Service (ISCAS)

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This template policy is for guidance for providers writing their own policy for the management of complaints from private patients. You will wish to adapt to your normal policy template and include policy review and audit requirements (not included here).

Please note the guidance differs slightly to that for the management of complaints from NHS patients (as per guidance from the Parliamentary and Health Service Ombudsman) and the policy can be adapted to cover both funding streams, by adding in the differences between both requirements.

NB: anything in square brackets may have a different title in different organisations and can be changed accordingly.

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England: Health and Social Care Act (2008) Regulated Activities (2014) Regulations:	
16	Receiving and acting on complaints
Northern Ireland: The Quality Standards for Health and Social Care:	
7	Complaints
Healthcare Inspectorate Wales: Health and Care Quality Standards	
Health Improvement Scotland: Health and Social Care Standards	
To be read in conjunction with the following company policies:	

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1. Introduction

- 1.1 The policy outlines our commitment to handling complaints about services delivered to private patients.
- 1.2 Complaints provide a valuable opportunity to learn, improve service delivery and reduce future risk to patients and others. Timely collection, reporting and review of all complaints are necessary for the development and implementation of risk reduction strategies.
- 1.3 This policy does not cover complaints made by Employees unless they have been a patient and are complaining about care or treatment received. Employees should refer to [organisation policy].
- 1.4 This policy does not cover legal claims or requests for compensation, which are normally decided through a legal process. These should be referred to [the legal team] by asking the patient to contact [details].
- 1.5 This policy reflects the requirement in the Health and Social Care Act (Regulated Activities) Regulations 2014 which is regulated by the Care Quality Commission (Commission): [Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014: Regulation 16](#).
The intention of this regulation is to make sure that people can make a complaint about their care and treatment. To meet this regulation providers must have an effective and accessible system for identifying, receiving, handling and responding to complaints from people using the service, people acting on their behalf or other stakeholders. All complaints must be investigated thoroughly, and any necessary action taken where failures have been identified.
It also reflects the requirements of [Healthcare Inspectorate Wales](#) (HIW), [Healthcare Improvement Scotland](#) (HIS) and [The Regulation and Quality Improvement Authority for Northern Ireland](#) (RQIA).
- 1.6 Our aim is to learn lessons from the complaint to avoid recurrence.
- 1.7 This policy reflects the [Principles of Good Complaint Handling identified by The Parliamentary and Health Service Ombudsman Constitution](#) and the [Independent Sector Complaints Adjudication Service Subscribers Code of Practice for Managing Complaints](#).

2. Scope

- 2.1 This policy only applies to the handling of complaints relating to private patients. This will include all private services delivered in the organisation. This includes services commissioned by insurance organisations, on locally offered fixed price packages, pay as you go services, and any service provided to a patient not funded by the NHS.
- 2.2 For the purposes of this policy, a complaint is defined as an expression of dissatisfaction about an act, omission or decision, either verbal or written, and whether justified or not, which requires a response.

3. Roles and Responsibilities

- 3.1 The organisation's [Chief Executive Officer or equivalent] has overall accountability for ensuring that the organisation's complaint policy meets the statutory requirements as set out in Regulations.

3.2 The [Executive Job Title] is the Executive Director responsible for the operational delivery of the complaint policy and ensuring it is approved through the appropriate governance committee.

3.3 **[add in other responsibilities if required]**

[For example only: The local hospital [title of most senior person] has the responsibility for:

- ensuring that complaints arising in their facility or department are handled in accordance with this policy. Hospital Directors who are Registered Managers under CQC regulations have specific responsibilities for the management of patient complaints.
- Any complaints not resolved at the point of service will be reported through the [complaints management system] system in order to maintain a register of complaints and to enable reports to be generated and trend analysis to be undertaken. [Monthly /quarterly] reports of complaints, trends and actions taken will be reviewed at formal committees and discussions documented in meeting minutes.
- Following the established, defined complaints handling process in this policy.
- Allocating sufficient resources (time, manpower) to deal with complaints.
- Ensuring written information / leaflets about the complaints management process are available for patients and families and easily accessible in all areas.
- Delegating appropriate authority.
- Allocating responsibility for the resolution of complaints where appropriate.
- Ensuring that complaints are not only identified but are reviewed and that appropriate action is taken to resolve them.
- Ensuring that feedback is given to the complainant.
- Ensuring that no person will be adversely affected because they raise a complaint.
- Ensuring that all systematic and recurring problems should be identified and resolved.
- Ensuring lessons are learned from complaints, their management and outcomes and those are shared widely within their facility.
- Ensuring that appropriate records are kept.]

4. **How to make a complaint**

4.1 A complaint can be made by:

- Telephone to [number]
- Email to [address]
- British Sign Language (BSL) users can talk to us via a videocall to a BSL interpreter by requesting via email first to make an appointment.
- We will seek to make the necessary reasonable adjustments in order to handle any complaint. For people whose first language is not English, we have access to a translation and telephone interpreting service. We can also handle complaints in alternative formats such as Braille.
- When receiving an inbound call, an offer should be made to call the complainant straight back so that they do not incur excessive costs. If the complaint team make an outbound call to a complainant, for reasons of security and confidentiality, they should

withhold the telephone number. Where possible, freepost/pre-paid envelopes should be provided to complainants if they are asked to return any papers by post.

- The organisation is responsible for publishing information about the complaints process. This includes making Easy Read materials about the complaints process available.
- The organisation is responsible for publishing its complaint policy on its website with signposting on how to make a complaint.

5. Who can make a complaint?

5.1 In line with the Regulations, a complaint may be made by people using the service, people acting on their behalf or other stakeholders who are likely to be affected by the action, omission or decision which is the subject of the complaint.

5.2 A complaint may be made by a representative acting on behalf of a person mentioned above who:

5.2.2 Has died:

The complainant would usually be the personal representative of the deceased. To respond to the personal representative, [the provider] may require some formal documentation from this person such as a copy of a will (to demonstrate their role as executor) or a lasting power of attorney relating to health care.

5.2.3 Is a child:

[The provider] must be satisfied that there are reasonable grounds for the complaint to be made by a representative of the child (rather than by the child themselves), and that the representative is making the complaint in the best interests of the child (a child is considered anyone under the age of 18).

5.2.4 Has physical or mental incapacity:

In the case of a person who is unable to make the complaint themselves because of either physical incapacity or who lacks capacity within the meaning of the Mental Capacity Act 2005, [the provider] needs to be satisfied that the complaint is being made in the best interests of that person.

In relation to points 5.2.2, 5.2.3, and 5.2.4 above, where [the provider] is satisfied that the representative has not demonstrated that they are empowered to act on behalf of the person who is the subject of the complaint, the complaint will not be considered under this policy. [The provider] must notify the representative in writing of this decision and state the reason for that decision.

5.2.5 Has given consent to a third party acting on their behalf.

In this case [the provider] will require the following information:

- Full name and address of the person making the complaint.
- Full name and either date of birth or address of the person who is the subject of the complaint.
- A consent form signed by the person who is the subject of the complaint

This information is recorded as part of the complaint file.

5.2.6 Has delegated authority to act on their behalf, for example in the form of a registered Power of Attorney which must cover health affairs.

6. Time Limit for Making a Complaint

- 6.1 A complaint must be made not later than 6 months after the date on which the matter which is the subject of the complaint occurred, or if later, the date on which the matter which is the subject of the complaint came to the notice of the complainant, as long as it is still possible to investigate the complaint.

7. Complaints Involving more than one Provider

- 7.1 When [the provider] receives a complaint that contains issues about more than one provider or organisation, it will have a discussion with the complainant about how the investigation will proceed and how a response will be provided. [The provider] will ensure that the complainant is notified in writing of the scope and limitations of the investigation.
- 7.2 Consent must be received from the complainant and/or patient before obtaining information from, or sharing information with, other providers or agencies.

8. Acknowledgement

- 8.1 Where a complainant has specified the way in which they wish to be addressed, all communication from the acknowledgement stage onwards will follow that request, including the use of pronouns.
- 8.2 If email correspondence is requested, ensure it is encrypted and goes to the correct email address for the correct person. Ensure that all responses are by letter attached to an email, and do not be led into email conversations. This has the potential to be less professional and difficult to control.
- 8.3 An acknowledgement to a complaint:
- Must be within 3 working days unless a full reply can be given within 5 working days.
 - Will be in writing unless in exceptional circumstances where it may be verbal (if made verbally it must be followed up in writing as soon as possible with confirmation of the verbal acknowledgement).
 - Must include an offer to discuss the handling of the complaint preferably face to face.
 - Must include the expected timeframe for responding to the complaint.
 - Should include a summary of what the complaint is about and, where unclear, offer to discuss what the complaint is about and the desired outcome.
 - When the complaint has been made verbally, it must include the written statement which has been recorded as the formal complaint.
 - Will address any issues of consent.
 - Must include the name and title of the complaint handler who will be the point of contact for the complainant throughout the complaint process.

9. Investigation

- 9.1 An investigation into a complaint should be conducted by the local provider.

- 9.2 The patient should be told of the investigation and the expected timeframes.
- 9.3 If regulatory Duty of Candour applies, this should be delivered by the organisation and not through the complaint letter or process.
- 9.4 If an investigation is likely to take longer than the original timeframe identified at the acknowledgement stage, the complainant must be contacted to be advised of a new timeframe for responding and an explanation given as to the reason for the delay.

10. Response

10.1 A response to a complaint must:

- Be by formal letter (which can be attached to an email, if encrypted).
- Include an explanation of how the complaint has been considered.
- Provide information about who has been involved in the investigation.
- Include a meaningful apology where it is due.
- Refer to any records, documents or guidelines that have been considered.
- Conclude and evidence how a decision was reached.
- Tell the complainant what has been done to put things right where appropriate.
- Signpost the complainant to next steps, including an internal escalation stage (stage 2) and an external escalation stage (stage 3).
- Before sharing a response with the complainant, consideration should be given to any response which may contain sensitive, unexpected and/or potentially harmful information or which may be delivered at a sensitive time (such as the anniversary of a death).
- We aim to respond within 20 working days. If [the provider] has not provided a response within 20 days, we will write to the complainant at 20 working day intervals to explain the reasons for the delay and outline when they can expect to receive the response. All complaints should ideally be completed within 3 months at each complaint stage.

11. Confidentiality and Consent

- 11.1 [The provider] has a legal duty to maintain the confidentiality of personal data.
- 11.2 [The provider] will not access or share data pertaining to complaints without following the guidance in section 5 of this policy in relation to consent for complaints, and our policy [name] relating to personal identifiable information.
- 11.3 All personal data received is recorded and stored on [a secure server] with limited authorised access. Information is retained in accordance with [the provider's] retention schedule.

12. Fraud

- 12.1 Any allegations of fraud or financial misconduct should be referred to [the provider's policy or an individual].

13. Safeguarding and Patient Safety

- 13.1 There may be circumstances in which information disclosure is in the best interests of the patient, or for the protection, safety or wellbeing of a child or adult at risk. In these circumstances, a complaint will be escalated as necessary in line with [the provider's] safeguarding policy and procedure.
- 13.2 Further support and guidance should be sought from your safeguarding lead according to policy [the provider's policy].
- 13.3 Organisations should ensure that contact details are reviewed regularly to ensure that the details remain current. This information should be shared with any newly recruited member of the complaints team as part of their local induction. This local information in terms of contact details should also be made available to the Customer Contact Centre teams if appropriate.
- 13.4 An appropriate summary of any action or escalation in respect of safeguarding upon receipt of a complaint/concern, or at any stage of the process, should be recorded.

14. The Safety of Complaint Staff

- 14.1 Most of the contact with complainants is via telephone, email or post. However, there may be either planned or unscheduled meetings face to face with complainants and appropriate measures need to be in place to support staff in the engagement.
- 14.2 A check should be made to see if any reasonable adjustments are recorded in order to provide the complainant with the best possible outcome when meeting.
- 14.3 It would also be advisable to see if there is information about restricted communications and/or any possible risks the complainant may pose.
- 14.4 Whilst the complainant may wish to discuss a confidential matter, it is essential that based upon the knowledge of the complainant, the complaint staff make a considered decision about how they interact with the complainant. In these circumstances, complaint staff should not meet the complainant alone and if possible, should be accompanied by a colleague with clinical experience.
- 14.5 A documented record of the discussion which takes place should be made by one of the staff in attendance.
- 14.7 Within the complaint process there should be a planned local resolution meeting.
- 14.8 Complaint staff should be supported by a colleague with appropriate experience according to the nature of the complaint. A neutral and safe venue should be sought for such a meeting. Managers should be aware of the location and duration of the meeting. A colleague should be identified as a key point of contact and the complaint staff undertaking the engagement should contact this colleague prior to the start of the meeting and then again upon its conclusion.
- 14.9 Complaint staff should ideally check the suitability of any suggested meeting space and an awareness of any security measures at the venue are recommended in advance of the meeting.

15. Persistent and Unreasonable Contact

- 15.1 Most people who complain act entirely reasonably. Occasionally, complainants may act inappropriately towards the staff involved in the investigation of a complaint for several reasons.
- 15.2 Services will, from time to time, encounter a small number of complainants who absorb a disproportionate amount of staff resource in dealing with their complaint. It is important to identify those situations in which a complainant might be behaving unacceptably and to suggest ways of responding to those situations which are fair to both staff and complainant.
- 15.3 You should make clear expectations of complainants in terms of behaviours at the outset of the complaint process, which should help to avoid any complainant behaving in a way that is not acceptable.
- 15.4 Handling unacceptable behaviour by complainants places a great strain on time and resources and causes undue stress for the complainant and staff who may need extra support. A complainant who behaves in a way that is unacceptable should be provided with a response to all their genuine grievances and be given details of independent organisations that can assist them, e.g. Citizens Advice Bureau, Patient Organisations, independent advocacy.
- 15.5 Staff should be trained to respond with patience and empathy to the needs of all complainants, however, there can be times when there is nothing further which can reasonably be done to assist them or to rectify a real or perceived problem.
- 15.6 In determining arrangements for handling such complainants, staff are presented with the following key considerations:
- To ensure that the complaint process has been correctly implemented as far as possible and that no material element of a complaint is overlooked or inadequately addressed.
 - To appreciate that a complainant who behaves in a way that is unacceptable may believe they have grievances which contain some genuine substance.
 - To ensure a fair, reasonable and unbiased approach.
 - To be able to identify unacceptable behaviours.
- 15.7 [The provider] must set out how to decide whether a complainant is behaving in a way that is unacceptable, and to respond in those circumstances.
- 15.8 Examples of unacceptable behaviours include:
- Persistent refusal to accept a decision made in relation to a complaint, where the complaint process has been fully and properly implemented and exhausted.
 - Seeking to prolong contact by changing the substance of a complaint or persistently raising the same or new issues with multiple members of staff not involved in the investigation of the complaint and questions whilst the complaint is being addressed. (Care must be taken not to discard new issues which are significantly different from the original complaint. These may need to be addressed as separate complaints.)
 - Unwillingness to accept documented evidence of treatment given as being factual (e.g. drug records, medical records, nursing notes).
 - Denying receipt of an adequate response despite evidence of correspondence specifically answering their questions.

- Refusing to accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- Demanding a complaint is investigated but that their identity is kept anonymous and without communicating with key persons involved in the complaint incident.
- Refusing to clearly identify the precise issues which they wish to be investigated, despite reasonable efforts by staff to help them specify their concerns, or where the concerns identified are not within the remit of the service to investigate.
- Focusing on a trivial matter to an extent that is out of proportion to its significance and continuing to focus on this point. (Determining what is a 'trivial' matter can be subjective, and careful judgement must be used in applying this criteria).
- Having, while a complaint has been registered, an excessive number of contacts with the service, placing unreasonable demands on staff, including leaving an excessive number of voicemails or emails. (Discretion must be used in determining the precise number of "excessive contacts" applicable under this section using judgement based on the specific circumstances of each individual case).
- Recording meetings or face to face/telephone conversations without the prior knowledge and consent of the other parties involved.
- Making unreasonable demands or expectations and failing to accept that these may be unreasonable (e.g. insisting on responses to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice and refusing to engage with and meet/speak directly with [provider], thereby limiting our ability to resolve issues raised).
- Threatening or using actual physical violence towards staff or their families or associates at any time - this will cause personal contact with the complainant or their representatives to be discontinued and the complaint will, thereafter, only be pursued through written communication.
- Harassing or being abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint or their families or associates, including the use of social media i.e. seeking to contact staff involved outside the working environment or obtaining personal information via social media channels to intimidate staff. Complainants may be intimidating without being 'abusive'. (Staff must recognise that complainants may sometimes act out of character at times of stress, anxiety or distress and should make reasonable allowance for this.)

15.9 Where a complaint investigation is ongoing - the appropriate manager should write to the complainant setting parameters for a code of behaviour and the lines of communication. If these terms are contravened, consideration will then be given to implementing other action.

15.10 Where a complaint investigation is complete, at an appropriate stage the appropriate manager should write a letter informing the complainant that:

- they have responded fully to the points raised, and
- have tried to resolve the complaint, and
- there is nothing more that can be added, therefore, the correspondence is now at an end.

15.11 State that future letters will be acknowledged but not answered.

15.12 Resuming regular interactions - Once complainants have ceased behaving unacceptably a record can be made that the policy on unacceptable behaviours no longer applies if, for example, the complainant subsequently demonstrates a more reasonable approach or if they submitted a further complaint for which the normal complaints process would appear appropriate.

15.13 As staff use discretion in identifying unacceptable behaviours, discretion should similarly be used when recommending that the policy on unacceptable behaviour no longer applies.

16. Compensation and Legal Action

16.1 In some cases, [title] may consider making a financial offer for a gesture of goodwill. Please note, compensation is not normally a remedy for a complaint and is normally decided through a legal process.

16.2 The complaints management process does not prejudice the right of a complainant to take legal action.

16.3 Please note that complainants should be informed in writing that if they proceed to escalate their complaint to stage 3 of the complaint process and it goes to ISCAS then any financial offer of goodwill is rescinded and ISCAS will adjudicate on any award.

17. Complaint Stages

Complaint Stage	Each Stage Underpinned by Standards	Time Frame
Stage 1	Complaint raised directly with clinic or hospital where care was provided.	Complaints should be made within six months of event unless in exceptional circumstances.
Stage 2	Internal review of complaint by someone who was not involved at Stage 1 (normally regional, head office or Executive Lead).	Complaints should be escalated to Stage 2 within six months of decision at Stage 1.
Stage 3	External review - ISCAS Independent Adjudication	Complaints should be escalated to ISCAS within six months of decision at Stage 2.

17.1 If a patient remains unhappy with the outcome at Stage 1 or 2, they have the right to request to escalate their concerns to the next level. They should be asked to do so in writing and to say why they remain unhappy with the outcome and what remains unanswered.

17.2 The patient may request escalation, and the provider should ensure each stage is completed before the complaint progresses to the next stage.

17.3 Each outcome letter to the patient should clearly state the next stages with a time frame.

Other Supporting Documents

- [Criteria in which ISCAS will seek an expert opinion](#) (ISCAS)
- [Guidance on managing unacceptable behaviour by complainants](#) (ISCAS)
- [ISCAS Code of Practice for Complaint Handling](#)
- [ISCAS Patient Guide](#)
- [ISCAS Practising Privileges Position Statement](#)
- [ISCAS Position Paper Complaint Handling versus Clinical Negligence](#)
- [ISCAS Revision to Goodwill Payment Guide](#)

References

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