



# **FAIRFIELD INDEPENDENT HOSPITAL**

## **COMPLAINTS POLICY/PROCEDURE**

## VERSION CONTROL

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## 1. STATEMENT OF PURPOSE

To ensure that users of services at Fairfield Independent Hospital are able to register a formal complaint and that it is investigated and responded to in line with the ISCAS Code of Practice for Complaints, NHS (England) Regulations 2009 and the NHS Complaints Procedure. To also ensure that informal complaints are responded to in an efficient and effective manner that is clear, open, accessible, fair, flexible, conciliatory and without blame. It is also designed to act as a mechanism to influence effective change within the organisation.

## 2. INTRODUCTION

This policy should be read in conjunction with the ISO procedure on complaints (P/ADM/E.04). This specifies how all staff will handle all expressions of public dissatisfaction in relation to any service providing care and treatment.

Since October 2014, there has been a statutory Duty of Candour to be open and honest with service users/residents about their care and treatment, including when it goes wrong.

The aim of Fairfield Independent Hospital Complaints Policy and the ISO procedure is to encourage communication on all sides to resolve the complaint satisfactorily. The Hospital approach will be non-discriminatory and seek conciliation.

Fairfield Independent Hospital aims to:

- Resolve complaints effectively by responding more personally and positively to individuals who are unhappy; and
- Ensure that opportunities for services to learn and improve are not lost.

Fairfield Independent Hospital has a duty to co-operate with other bodies where any complaints involve more than one NHS or social care organisation and any matters referred by the Clinical Commissioning Groups (CCG's) for formal investigation.

NHS complainants can also take their complaint against Fairfield Independent Hospital to the relevant CCG or NHS England or health Service Ombudsman and ask them to investigate the matter.

Fairfield Independent Hospital has a duty to co-operate with these bodies on these issues. Fairfield Independent Hospital will always be given the opportunity to respond but the CCG must agree with the complainant how the matter is to be handled and obtain the necessary consent from the complainant to enable the CCG to share the complainants concerns with another organisation.

Fairfield Independent Hospital is committed to resolving complaints as speedily as a proportionate intervention requires.

All complaints will be acknowledged within 2 working days of the matter being received by the Hospital.

Fairfield Independent Hospital will learn lessons from all complaints and will ensure any learning is recorded, monitored and shared throughout the Hospital to improve service delivery. Lessons learned will be discussed with the Heads of Department

(HOD) and it will be the responsibility of the relevant HOD to ensure that lessons from complaints are embedded into service delivery as appropriate.

All complaints will be treated confidentially and will not form part of the patient's medical record. Information will only be disclosed to those who have a need to access to it.

### **3. GENERAL PRINCIPLES**

This policy will ensure that individuals making complaints are treated with respect and are not penalised for making a complaint or raising a concern. A number of processes are in place to help ensure this principle is adhered to:

- Fairfield Independent Hospital promotes an open culture.
- All staff are encouraged to learn from complaints and not assign blame.
- Complaint records are kept separately from patient records.
- If a member of staff is found to have penalised an individual for making a complaint/raising a concern this would be escalated to the appropriate Director and the Conduct process will be initiated where appropriate.

Fairfield Independent Hospital welcomes and encourages feedback from service users, carers and their families and members of the public. Feedback, including compliments and complaints, is valuable to Fairfield Independent Hospital, helping us to improve services by learning lessons from people's experiences.

Fairfield Independent Hospital will offer a speedy and efficient system that is open, fair to all involved and flexible to the needs of people wanting to make a complaint. This includes offering, where appropriate, to resolve 'local', non-formal complaints within 24 hours.

Fairfield Independent Hospital adopts the Parliamentary and Health Service Ombudsman's Principles of Good Complaints Handling and the ISCAS Code of Practice as codes to be followed by all staff and investigators who look into issues referred to them (Appendix 3).

All allegations made will be taken as true at face value with intervention from the Hospital that is full and fair. Individuals will be given clear and specific reasons for any decision taken on their complaint based on the evidence and that those decisions address all the concerns raised by the complainant.

Allegations made anonymously will be reviewed, but outside of the complaints process. Fairfield Independent Hospital will be clear in all its communications, using plain English and avoiding jargon throughout and implementing other appropriate means of communications as needed.

### **4. WHAT IS A FORMAL COMPLAINT? WHO CAN AND HOW TO COMPLAIN**

A formal complaint is an oral or written expression of dissatisfaction requiring a formal response when a patient wishes to invoke the Complaints Procedure and about any matter reasonably connected with services supplied by Fairfield Independent Hospital. This includes private/insured and NHS patients.

Negative comments will be dealt with by the CEO's office and all negative comments will be investigated, patients given a full response and any changes in practice highlighted as a result of the comment.

Details of how to complain are on the Hospital's website and on Hospital notice boards.

A complaint, which is made either orally or in writing to a member of staff and is resolved to the complainant's satisfaction no later than the next working day will be recorded as a local resolution. It is the responsibility of all staff to try and resolve an issue as it arises and to notify the Exec PA accordingly of all complaints.

A patient must give their written consent for someone to act on their behalf. Consent will be valid for a period of 6 months, when this has expired Fairfield Independent Hospital will require further written consent. If the patient does not have capacity, other alternatives of consent will be sought. A complaint may be made by a person (in regulations referred to as a representative acting on behalf of a person, but not acting on behalf of themselves without the complainant's knowledge) who has:

- requested a representative to act on their behalf
- delegated authority to do so, for example in the form of Power of Attorney
- is an MP acting on behalf of and by instruction from a constituent
- has died
- is a child
- is unable to make the complaint themselves because of:
  - physical incapacity; or
  - lack of capacity within the meaning of the Mental Capacity Act 2005

A complaint should be made as soon as possible after the action giving rise to it, to enable a full investigation whilst all the facts regarding the complaint are still readily available. The time limit for making a complaint is within 12 months of the event. If there is continued dissatisfaction after a final response, this needs to be expressed in writing within 6 months of outcome letter.

Persons wishing to make a complaint can contact the Chief Executive office on 01744 746403 or write to the Chief Executive.

## **5. COMPLAINTS PROCEDURE**

A step-by-step guide to handling complaints received in writing as well as those made to front-line staff is provided in the ISO process (P/ADM/E/04).

## **6. SCOPE**

This policy and associated procedure is intended for use by all those employed by and working on behalf of (e.g. agency, bank, consultants/clinicians contractors etc.) Fairfield Independent Hospital. All such individuals are obliged to assist in investigations of complaints.

This policy and its related procedure should not be used by staff to complain about the conduct, harassment or the capability of other staff members, nor should it be used to lodge complaints regarding the late payment of invoices. There are separate policies and procedures dealing with these.

## **7. ROLES AND RESPONSIBILITIES**

### **Chief Executive**

The Chief Executive has overall responsibility for the complaints procedure.

### **Heads of Department**

The Heads of department/Leads/Department of Clinical Services & Quality will:

- investigate complaints relevant to their individual area and coordinate responses within required timescales
- liaise with appropriate professionals
- ensure suitable administrative records are kept
- draft appropriate responses
- arrange necessary meetings
- prepare action plans

### **Employees and Clinicians**

The responsibilities of employees and clinicians practising at Fairfield Independent Hospital are to assist with the gathering of information relating to complaints investigations.

All members of staff have a responsibility to:

- Familiarise themselves with the content of the complaints policy procedure
- Work within the standard and guidelines
- Review their practice as a result of any complaint raised or received and

- Ensure that service users/residents, their relatives and carers are not treated differently as a result of raising a concern/complaint.

All members of staff are responsible for responding to a concern/complaint made directly to them by ensuring they listen to the complainant and take the appropriate action in line with the complaints procedure (see Appendix 1).

Line managers of staff who are the subject of a complaint will provide support to those staff. This is fully described in the accompanying procedure.

This policy should be read in conjunction with ISO procedure P/ADM/E/04

### **Chairman of the Hospital's Medical and Advisory Committee**

May be requested to review a clinical complaint when a patient remains dissatisfied and the matter is unresolved.

### **Complainants**

Occasionally dealing with complainants can become very difficult for a number of various reasons. In all cases when there are difficulties, staff will follow the ISCAS guidance on Managing Unacceptable Behaviour of Complainants (Appendix 2).

## **8 MONITORING**

Fairfield Independent Hospital's Board of Directors will receive bi-monthly reports. Complaints will be reported to the Medical Advisory Committee, Integrated Governance Committee and HoD monthly meeting.

Complaint information and relevant actions are sent to the private insurers as and when a complaint arises.

The Clinical Commissioning Group receive quarterly updates on complaints.

## **9. INDEPENDENT REVIEW**

Complainants may refer their case to the Parliamentary and Health Service Ombudsman for review if:

- they are not satisfied with the result of Fairfield Independent Hospitals' investigation
- the complaint has not been resolved within six months (or such longer period as may be agreed before the expiry of that period with the complainant)
- Fairfield Independent Hospital has decided not to investigate the complaint because it was not made within the time limits.



Private patients, if they are not satisfied, may refer their case to the ISCAS for independent review and adjudication. Please refer to [www.iscas-patient-guide-for-making-complaints](http://www.iscas-patient-guide-for-making-complaints) (Appendix 3).

A complainant can approach the Health Service Ombudsman with his/her complaint. However, it is unlikely that the Ombudsman will take up the complaint prior to the completion of Fairfield Independent Hospital's Complaints procedure. The Ombudsman has the power to consider complaints that have not been put directly to the Hospital and/or where the stages of the complaints procedure have not been exhausted. The Hospital will make this known to all complainants at the end of the process and will include the Parliamentary Health Service Ombudsman's contact details in the response letter.

Any reports from independent reviews conducted by the Ombudsman will be used as valuable sources of feedback from which hospital staff can learn.

## **10. EXCLUSIONS**

A complaint made by an employee about any matter relating to their contract of employment. Separate mechanisms exist under Fairfield Independent Hospital's 'Grievance Policy Procedure'.

A complaint, which has already been investigated by Fairfield Independent Hospital or is being or has been investigated by the Ombudsman except where they have referred an issue back to Fairfield Independent Hospital for further investigation.

A complaint arising out of the Hospital's alleged failure to comply with a data request under the Data Protection Act 1998 and or General Data Protection Regulations May 2018. Fairfield Independent Hospital Senior Information Manager should be consulted with regard to complaints arising out of data subject requests under the Data Protection Act 1998/GDPR.

A complaint by non-patient third party, who have not been affected by an action, omission and or decision of Fairfield Independent Hospital.

## **11. RECORD KEEPING**

Keeping clear and accurate records of complaints is important and should be retained for 10 years. Complaints correspondence must not be filed in patients' medical records.

## 12 REFERENCES

- The Principles of Good Complaint handling (Parliamentary and Health Service Ombudsman February 2009) <http://www.ombudsman.org>
- The Local Authority Social Services and National Health Complaints (England) Regulations 2009 <http://dh.gov.uk>
- CQC Fundamental Standards of Care ( Health and Social Care Act ( Regulated Activities) 2008 Regulations 2014
- Listening, responding, Improving a guide to better customer care (February 2009 ) <http://dh.gov.uk>
- Report of Mid Staffordshire NHS Foundation Hospital Public Inquiry, by Robert Francis QC, Executive Summary (February 2013)
- Clwyd/Hart report recommendations (November 2013)
- Statutory Duty of Candour for Health and Adult Social Care Providers (Department of Health June 2014)
- ISCAS Code of practice for Complaints management January 2022

**A GUIDE FOR STAFF**

**SUCCESSFULLY DEALING WITH PATIENT COMPLAINTS AND ENQUIRIES**

Even the best-managed ward or departments will receive complaints at some point from patients and relatives. People may express concerns or complaints because they are anxious, upset, in pain or are frightened. Whatever the reason, it is important that patients feel able to express their concerns without feeling that their care may be affected in any way. Any member of staff can initially deal with a complaint or an enquiry by a patient or their relative.

If someone wishes to make a complaint, use this checklist to help:

**Local resolution**

- Always ensure that the health needs of the patient continue to be met.
- Remain calm.
- Respect the person's need for privacy, take them to a quiet area or room if possible. Do not compromise your personal safety. If necessary, ask someone to accompany you.
- Listen carefully to what they have to say and, if necessary, take notes.
- Give the complainant time to express their concerns. Ask questions to check that you have understood what they are saying and to gain additional information.
- Try to place yourself in the patient's shoes. Would you feel happy if their experience had happened to you or your relative?
- Apologise for the problem and the fact that they had reason to complain. An apology can often remedy a potentially difficult situation and is not an admission of liability.
- If possible, try to explain why the problem might have arisen. If necessary, find out additional information from other staff to enable you to answer the concerns.
- If appropriate, offer apologies for any weakness or failures in the service and explain what action you intend to take.
- Do not be defensive and never blame other colleagues, department or Hospital policies.
- Check that the person is satisfied with the outcome.
- Ensure that any verbal complaint is recorded.

If you feel unable to deal with the complaint yourself or the person making the complaint is still unhappy, then refer to your immediate manager.

**Formal resolution**

If the patient wishes to make a formal complaint ask them to write to the Chief Executive and check if they need any assistance to do so.

If complainant is acting on behalf of patient obtain patient consent to investigate matter. Consent will be valid for a period of 6 months only.

Acknowledge the complaint in writing.

If first written response inadequate send Hospital policy and offer face to face meeting

Review any learning.

**ISCAS Guidance for Staff for Managing Unacceptable Behaviour by Complainants**  
**May 2017**

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.

1. The IHP should make clear its expectations of complainants in terms of behaviours, which should help to avoid any complainant behaving in a way that is not acceptable.
2. 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, independent advocacy, the Patients Association.
3. Although staff are trained to respond with patience and empathy to the needs of all complainants, 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.
4. In determining arrangements for handling such complainants, staff are presented with the following key considerations:
  - a) To ensure that the complaints process has been correctly implemented as far as possible and that no material element of a complaint is overlooked or inadequately addressed.
  - b) To appreciate that a complainant who behaves in a way that is unacceptable may believe they have grievances, which contain some genuine substance.
  - c) To ensure a fair, reasonable and unbiased approach.
  - d) To be able to identify unacceptable behaviours.
5. IHPs must set out how to decide whether a complainant is behaving in a way that is unacceptable, and how the organisation will respond in those circumstances. Examples of unacceptable behaviours include:
  - a) Persistent refusal to accept a decision made in relation to a complaint and that the complaints process has been fully and properly implemented and exhausted.
  - b) 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 might need to be addressed as separate complaints.)
  - c) Unwillingness to accept documented evidence of treatment given as being factual e.g. drug records, medical records, nursing notes.
  - d) Denying receipt of an adequate response despite evidence of correspondence specifically answering their questions.
  - e) Refusing to accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
  - f) Demanding a complaint is investigated but that their identity is kept anonymous and without communicating with key persons involved in the complaints incident.

- g) 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.
- h) 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).
- i) 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).
- j) Recording meetings or face to face/telephone conversations without the prior knowledge and consent of the other parties involved.
- k) 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 the IHP, thereby limiting the ability of the IHP to resolve issues raised).
- l) Threatening or using actual physical violence towards staff or their families or associates at any time - this will in itself cause personal contact with the complainant or their representatives to be discontinued and the complaint will, thereafter, only be pursued through written communication.
- m) 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 of 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 allowances for this.)

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.

7. When a complaint investigation is complete - at an appropriate stage, the appropriate manager should write a letter informing the complainant that:
  - a) they have responded fully to the points raised, and
  - b) have tried to resolve the complaint, and
  - c) there is nothing more that can be added, therefore, the correspondence is now at an end.
  - d) (Optional) state that future letters will be acknowledged but not answered.
8. In extreme cases, the appropriate manager should reserve the right to take legal action against the complainant.

9. Resuming regular interactions: Once complainants have ceased behaving unacceptably there needs to be a mechanism for stating that the policy on unacceptable behaviours no longer applies if, for example, the complainant subsequently demonstrates a more reasonable approach or if they submit a further complaint for which the normal complaints process would appear appropriate.
10. As staff use discretion in identifying unacceptable behaviours discretion should similarly be used when recommending that the policy on unacceptable behaviour no longer applies.

**Independent Healthcare Sector Complaints Adjudication Service (ISCAS) Code**  
**endorsed by © The Patients Association**

**A Guide for patients making a complaint about private and independent healthcare**

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](http://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](http://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](mailto:helpline@patients-association.com)

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](mailto: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](http://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 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.

### **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.

Internal review of complaint by someone who was not involved at stage 1 (e.g. regional/head office)

Complaint raised directly with clinic or hospital where care was received

**Question 6: *Where do I start?***

Complaining can be stressful, so the aim is to try to 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.

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.

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

### **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](http://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.

Independent Sector Complaints Adjudication Service 70 Fleet Street, London EC4Y 1EU  
Tel: 020 7536 6091 Email: [info@iscas.org.uk](mailto:info@iscas.org.uk) [www.iscas.org.uk](http://www.iscas.org.uk)

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**APPENDIX 4**  
**COMPLAINTS**  
**FLOW CHART**

COMPLAINT RECEIVED IN WRITING

**STAGE 1**  
ACKNOWLEDGE WITHIN 2 WORKING DAYS  
OFFERING TELEPHONE CALL TO DISCUSS FURTHER IF WISH  
INCLUDE LINK TO COMPLAINTS POLICY ON WEBSITE  
NOTIFY WILL INVESTIGATE AND REPLY WITHIN 20 WORKING DAYS

**STAGE 1 CONTINUED**  
INVESTIGATE BY OBTAINING WRITTEN STATEMENTS FROM STAFF AND/OR  
CONSULTANT/CLINICIAN(S) INVOLVED

**STAGE 1 CONTINUED**  
SEND WRITTEN RESPONSE WITHIN 20 WORKING DAYS AND OFFER MEETING  
NOTE: IF PRIVATE AND MADE PAYMENT FOR GESTURE OF GOODWILL  
SAY IT IS "IN FULL AND FINAL SETTLEMENT"

IF COMPLAINANT STILL DISSATISFIED  
ACKNOWLEDGE WITHIN 2 WORKING DAYS AND SAY NOW:  
**STAGE 2**  
AND WILL RE-INVESTIGATE WITHIN SAME PREVIOUS TIMESCALE

DIFFERENT INVESTIGATOR  
(IF CLINICAL, DIRECTOR OF CLINICAL SERVICES & QUALITY)  
TO REVIEW COMPLAINT

SEND OUTCOME OF SECOND INVESTIGATION TO COMPLAINANT  
IF SELF PAY AND NOT RE PAYMENT, CLINICAL NEGLIGENCE OR NHS CARE  
HAS THE RIGHT TO GO TO ISCAS (STAGE 3) IF REMAINS DISSATISFIED

**STAGE 3**  
IF COMPLAINANT GOES TO ISCAS  
ISCAS WILL NOTIFY FIH AND ATTEMPT TO MEDIATE  
ISCAS ADJUDICATOR MAY NEED TO INVESTIGATE AT A COST TO FIH

**Equality Impact Assessment (EIA) Screening Tool  
(Towards an Equality and Recovery Focused Organisation)**

<b>A. Name of policy/procedure/strategy/plan/function etc. being assessed:</b>	Corporate 21 - Complaints Policy
<b>B. Brief description of policy/procedure/strategy/plan/function etc. and reason for EIA:</b>	Policy in place to ensure all formal and informal complaints are acknowledged and dealt with appropriately.
<b>C. Names and designation of author / reviewer</b>	Kate Roche - PA to CEO
<b>D. List of key groups/organisations consulted:</b>	None for this review as changes were minor
<b>E. Data, Intelligence and Evidence used to conduct the screening exercise.</b>	None based on previous policy in place

<b>F. Equality Strand</b>	<b>Does the proposed policy/procedure/strategy/plan/function etc. have a positive or negative (adverse) impact on people from these key equality groups? Please describe</b>	<b>Are there any changes that could be made to the proposals which would minimise any adverse impact identified? What changes can be made to ensure that a positive impact is achieved? Please describe</b>	<b>Have any mitigating circumstances been identified? Please describe</b>	<b>Areas for Review/Actions Taken (with timescales and name of responsible officer)</b>
<b>Race</b>	There is no impact on Race as the policy applies to all employees and clinicians who have practising rights at FIH	N/A	N/A	N/A



<b>Gender Include Transgender and Pregnancy and Maternity Disability</b>	As Race	N/A	N/A	N/A
<b>Religion/Belief</b>	As Race	N/A	N/A	N/A
<b>Sexual Orientation Include Marriage &amp; Civil Partnership</b>	As Race	N/A	N/A	N/A
<b>Age</b>	As Race	N/A	N/A	N/A
<b>Social Inclusion<sup>*1</sup></b>	As Race		N/A	N/A
<b>Community Cohesion<sup>*2</sup></b>	As Race	N/A	N/A	N/A
<b>Human Rights<sup>*3</sup></b>	As Race	N/A	N/A	N/A

<sup>\*1</sup> **for Social Inclusion** please consider any issues which contribute to or act as barriers, resulting in people being excluded from society e.g. homelessness, unemployment, poor educational outcomes, health inequalities, poverty etc.

<sup>\*2</sup> **Community Cohesion** essential means ensuring that people from different groups and communities interact with each other and do not exclusively live parallel lives. Actions which you may consider, where appropriate, could include ensuring that people with disabilities and non-disabled people interact, or that people from different areas of the City or County have the chance to meet, discuss issues and are given the opportunity to learn from and understand each other.

<sup>\*3</sup> **The Human Rights Act 1998** prevents discrimination in the enjoyment of a set of fundamental human rights including: The Right to a Fair Trial; Freedom of Thought, Conscience and Religion; Freedom of Expression; Freedom of Assembly and Association; and the Right to Education.

<b>Conclusions and Further Action (including whether a full EIA is deemed necessary and agreed date for completion)</b>	Based on the Hospitals EIA screening tool there is no further action required for this policy  Andrew Jones  24/02/2021
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Project/Policy/Procedure Title: Complaints Procedure (Corporate-21)

Project Lead: N/A

Date: 10/01/2023

Question		Yes	No	Unsure	Comments
1	Are privacy-intrusive <sup>1</sup> technologies being used?		NO		
2	Are new and untested technologies being used?		NO		
3	Are the purposes of data processing unclear?		NO		
4	What is the lawful basis for processing data?				N/A
5	Are new or substantially different identification authentication requirements needed?		NO		
6	Will there be a significant amount of new data about each person, or a significant change in the current data-holdings?		NO		
7	Will there be new data about a significant number of people?		NO		
8	Will there be a new link of personal data with another data-holding?		NO		
9	Are the data collection procedures new, changed, unclear or intrusive?		NO		
10	Will there be a new or changed data quality process?		NO		
11	Will there be new or changed data security arrangements?		NO		

<sup>1</sup> Intrusion can come in the form of collection of excessive personal information, disclosure of personal information without consent and misuse of such information. It can include the collection of information through surveillance or monitoring of how people act in public or private spaces and through the monitoring of communications whether by post, phone or online and extends to monitoring the records of senders and recipients as well as the content of messages.

<b>12</b>	Are there new or changed data access or disclosure arrangements?		NO		
<b>13</b>	Are there new or changed data retention arrangements?		NO		
<b>14</b>	Has any external data sharing been identified on the departments data flow map?		NO		
<b>15</b>	Is the personal data likely to raise privacy concerns with the individuals? e.g. health records, criminal records		NO		
<b>16</b>	Is there any use of highly sensitive or biometric data? e.g. protected characteristics or finger print recognition		NO		
<b>17</b>	Will personal data be disclosed to organisations or people who have not previously had access to the data?		NO		
<b>18</b>	Will data collection and processing result in automated decision making which will have a significant impact on the individuals concerned?		NO		
<b>19</b>	Will individuals be compelled to provide information about themselves?		NO		
<b>20</b>	Is there a contract or data sharing agreement in place with all third parties?		NO		