ISCAS

INDEPENDENT SECTOR
COMPLAINTS ADJUDICATION SERVICE

Annual Report 2011/2012

Providing an effective quality complaints framework

Contents

Independent Sector Complaint and Adjudication Service
Centre Point
103 New Oxford Street
London WC1A 1DU
T: 020 7379 8598
F: 020 7379 8586
www.iscas.org.uk

ISCAS...continues to be the recognised complaints management framework in the independent sector

Introduction

ISCAS, having been established for over 10 years, continues to be the recognised complaints management framework in the independent sector, serving patients, the public and healthcare organisations. Membership numbers have increased from 63 to 68. Since all eligible larger companies are already ISCAS members, further increases in ISCAS members are among new smaller clinics and companies. Some previous ISCAS members have been taken over or ceased trading. The Independent Healthcare Advisory Services provides the secretariat and management of ISCAS.

The Code of Practice for Handling Complaints (the Code) sets out the standards that ISCAS members agree to meet when handling complaints about their services. The Code retains a 3 stage process which focuses on local resolution wherever possible and provides further opportunity at stage 2 to review the handling of a complaint and maximise the ISCAS member's ownership of the complaint handling. The ISCAS process has demonstrated year on year that the vast majority of complaints are resolved at stages 1 and 2.

Stage 1 - local resolution
Stage 2 - organisation review
Stage 3 - Independent Adjudication

The stage 3 adjudication affords those complainants using ISCAS member hospitals and clinics an independent review process for complaints that cannot be resolved locally. ISCAS members using the Code clearly demonstrate a commitment to providing a quality service.

The ISCAS Code and the 8% increase in membership demonstrates that the independent healthcare sector can work together for the common good and share an industry wide standard amongst its members.

ISCAS and Sector Regulators

ISCAS continues to share an Operating Protocol with the Care Quality Commission (CQC) and Health Inspectorate Wales (HIW) which recognises the importance of allowing ISCAS to be properly utilised where appropriate by the regulator. The CQC and HIW afford ways to signpost the public to ISCAS. Whilst neither will endorse or promote ISCAS, as it is an independent system outside of their management, its value as an alternative route in the resolution of complaints is recognised and is therefore brought to the public's attention.

Governance

A new milestone for the beginning of 2012 ISCAS established a Governance Board to ensure the independence of the Code of Practice. Lady Fiona Hodgson, CBE has been appointed as Chair of the new Board and brings a valuable contribution and steer to the work of ISCAS and the Board.

Lady Fiona Hodgson said, *"The establishment of the ISCAS Governance Board demonstrates a commitment by the independent healthcare sector to ensuring a fair and effective route for complaints in the private sector. I have campaigned over a number of years from the patients' perspective for a robust complaints system in the private sector and I am delighted to have been invited to Chair the ISCAS Governance Board."*

The governance arrangements are to ensure the Code is implemented effectively by ISCAS members and holds ISCAS members to account for their observance of the Code. An important feature is patient and public engagement on the Board, and increased involvement of patient organisations with the development of ISCAS, for example through close working between ISCAS and the Patients Association.

How does the Governance Board meet its aims?

The remit of the board is to:

- Ensure that the Code of Practice for Management of Patient Complaints about independent healthcare services provides a fair and effective route for remedy of complaints in accordance with current national best practice.
- Hold ISCAS Members to account for their observance of the Code of Practice for the Handling of Patient Complaints in the independent healthcare sector.
- Make recommendations concerning the annual delivery plan and budget including fees for subscribers (ISCAS Members).
- Hold the management of ISCAS to account for the delivery of the ISCAS service, annual plan and budget.
- Seek feedback from consumers, stakeholder's and providers about the Code of Practice; derive lessons; and recommend appropriate changes to the Code of Practice as necessary.
- Advocate the merits and benefits of the Code to patients, staff, regulators, and other stakeholders.
- Approve the Annual Report to stakeholders.

The Code of Practice

The Governance Board asked ISCAS to review the Code as the main work priority for 2012. The new Code is expected to be published in autumn 2012 following a period of consultation. The new Code will be a customer focussed document and based on those same principles that the Parliamentary and Health Service Ombudsman has set out as Principles for remedy. The changes also include being more explicit about the respective roles of ISCAS members, ISCAS and the adjudicators in responding to complainants and improving their experience of the complaints process.

Andrew Wilby, ISCAS Secretariat said *"We are revising the Code to refresh and update the standards and to make sure that the complainant experience is at the heart of the process. The revision will make sure the ISCAS Code is underpinned by a commitment to value complaints for the feedback they can provide about services, and considers a range of remedies to resolve a complaint as well as the ability of the adjudicator to make a financial award when it is appropriate."*

Judicial Review

ISCAS and the Judicial Review application in 2011

At the end of 2011 a complainant who had used the adjudication service made an application to the High Court Queen's Bench for a Judicial Review of their adjudication and the operation of ISCAS. The court found in favour of ISCAS at the first representation and then again on appeal. The Administrative Court's decision was clear in its rebuttal of the claim that:

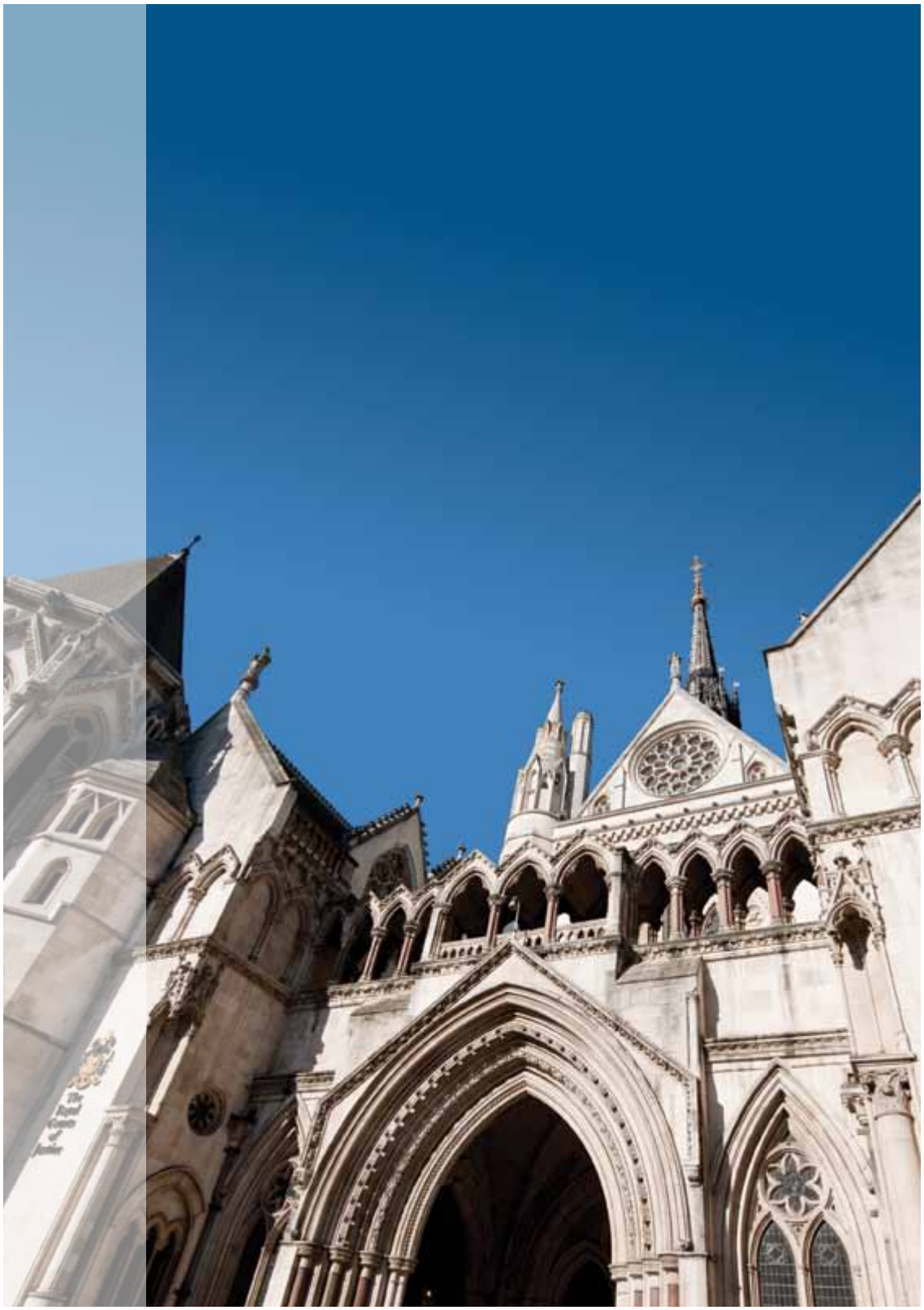
1. ISCAS provides a private service (and not a public service) for the benefit of complainants and its member organisations.

2. This was a private arrangement between ISCAS, the complainant and the member organisation. As such ISCAS was not carrying out a "public function" and therefore the complainant could not seek a public law remedy in the Administrative Court.

3. Even if the case was amenable to Judicial Review (which the court ruled it was not) the complainant's grounds for complaint did not disclose any arguable basis for bringing a claim for Judicial Review. In other words the Court did not accept the suggestion that the ISCAS process had not been carried out properly.

4. There was no breach of human rights.

This is a significant event for ISCAS and also for its members, not only is the position of the ISCAS confirmed in that it does not provide a "public function" which is the basis for the arrangements of the service, but there was no suggestion that the ISCAS process had not been carried out properly. The latter is a great reassurance for those complainants who use the adjudication service as well as for ISCAS members. ISCAS plans to continue to strengthen its governance; the Independent Healthcare Advisory Services has been successful in achieving certification to the Information Standard which is supported by the Department of Health. The certification includes the ISCAS Code and its supporting literature.



Activity 2011–12

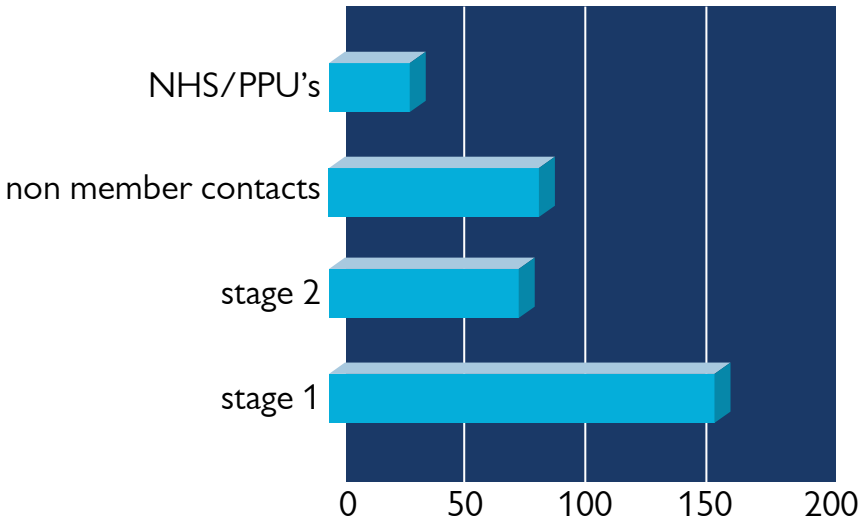
The main reason why people contact ISCAS is to find out about the complaint procedures and to seek reassurances that the correct procedures are being followed.

Table 1 shows the ISCAS contacts through 2011 up until March 2012. ISCAS received 367 contacts from people seeking information from the service. In comparison to the 2010 activity this is similar in terms of overall numbers taking into account ISCAS has reported on a 15 month cycle this year.

In 2010 there were 254 contacts which means that the contact is relatively constant but has not seen the large increase ISCAS has seen in previous years. This could be related to improved information being provided to patients using the services of ISCAS members, increased access to information through the ISCAS webpage and more complaints being resolved through the local resolution procedures without the need to contact ISCAS directly.

Callers to ISCAS can present with complex and challenging queries in particular when they are about non-members. All of these contacts are important to ISCAS and they provide the opportunity to explain the complaint procedures and in many instances signpost the complainant into the ISCAS member's local resolution procedures. In addition ISCAS is able to advise enquirers which organisations are signed up to using the good complaint handling principles of the Code.

table 1



Complaints about non-members

ISCAS continues to receive contacts regarding non member organisations (25% of all contacts) where those complainants have nowhere to access an independent complaint review stage. It may mean they have chosen to use the services of an organisation with no commitment to resolving complaints positively. In some cases ISCAS has successfully engaged with some organisations to commit and subscribe to the Code.

Two NHS Trust's Private Patient Unit (PPU) have expressed an interest in joining ISCAS. This is an important area to both ISCAS and those complainants that contact us having reason to complain about a PPU (9% of contacts). Currently there is nowhere for those complainants to take their complaint for review and in some cases they experience barriers to a local complaint procedure. ISCAS has continued to raise this issue with the Department of Health to seek an improved experience for these complainants.

In last year's report ISCAS welcomed the Independent Doctors Federation (IDF) into membership. The arrangement is different from other organisations because the IDF itself does not provide clinical services but its members, private medical practitioners, do. This means those complainants continue to follow the tried and tested 3 stage process with the IDF providing a second stage procedure where local resolution has been unsuccessful.

ISCAS has started discussions with the British College of Aesthetic Medicine (BCAM) to encourage a similar arrangement.

Adjudicators

Independent Adjudicators

ISCAS has reviewed its arrangements for stage 3 adjudications resulting in an increased number of adjudicators to consider cases. This change created a flatter structure and removed the hierarchy of principal and deputy adjudicator for this year. It is a significant development in broadening the experience and expertise that the adjudicators bring to the independent review for complainants and the overall development of the service.

Adjudicator feature

Sally Williams has a:

strong commitment to public protection and to the provision of high quality healthcare. She undertakes a number of activities that assess performance in the healthcare setting. These include undertaking quality assurance visits of medical training for the General Medical Council; participating in reviews of individual surgeons or surgical services for the Royal College of Surgeons of England; reviewing the progression of GP trainees for the London Deanery; undertaking performance reviews of doctors for the National Clinical Assessment Service and participating in fitness to practise hearings for the Nursing and Midwifery Council.

Sally Williams was previously a member of the Council for Healthcare Regulatory Excellence (CHRE) and gained a good understanding of the nine professional healthcare regulators. Sally is a non-executive director of NHS Cambridgeshire & NHS Peterborough PCT Cluster. She is Chair of its Quality and Patient Safety Committee, and participates in visits to local hospitals to check quality standards.

Sally Williams is a health policy consultant and health services researcher. Her clients include The King's Fund, the Nuffield Trust and the Health Foundation. She worked for a number of years as Principal Health Policy Researcher for the Consumers' Association (now Which?), where she led research into patients' experiences of complaining about health services, and campaigned for better regulation of independent healthcare. Sally contributed to the development of professional standards for cosmetic surgery as a member of the Cosmetic Surgery Interspecialty Committee. She has an MA in Health and Community Care from Durham University.

Adjudicator's monthly message

ISCAS features regularly in the monthly updates from the Independent Healthcare Advisory Services. This includes messages about current themes and issues from the adjudication cases.

Expert clinical advice is used by the adjudicator when a decision is required that involves a clinical matter and was sought in 1 of 28 cases – 4% of cases. ISCAS uses expert witnesses who demonstrate they have no conflict of interest with a case and can produce a report to the adjudicator of the same standing as would be required in a legal case. The availability of expert advice is essential for the adjudicator to make judgements that can be evidenced to the complainant and the ISCAS member.

Cost of adjudication

For the fourth consecutive year the average cost per case of adjudication by average case has fallen, a reduction of 31% since 2007. These costs are met by the member organisation because access to ISCAS adjudication is at no financial cost to the complainant. There have been no panel hearings in 2011 which also has an impact on cost reduction.

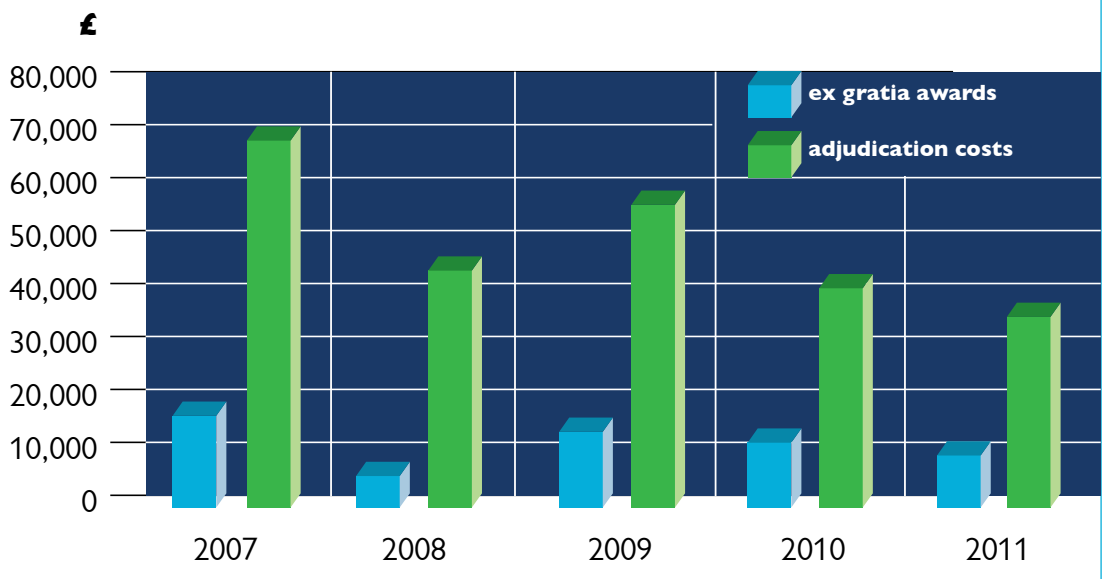


table 2

Ex Gratia awards

Ex Gratia awards, which will be known as goodwill gestures in the new Code, have also seen a decrease in cost over the last 2 years. The Code focuses on seeking resolution, explaining and learning from complaints, however it also recognises situations where it is appropriate for an adjudicator to make a financial award. An adjudicator can make an award of up to a maximum of £5,000 in recognition of inconvenience and distress in relation to the complaint. Adjudicators use this scale (drawn by the Law Society) to make this judgement:

modest	up to £250
significant	£200-£500
serious	£500-£1,000
very serious	£1,000-£5,000

table 3

ex gratia awards given	2007	2008	2009	2010	2011
cases in which awards were made	14	14	21	17	16
% cases attracting an award	70%	72%	78%	77%	57%
total cost of awards £	19,000	7,450	15,000	12,150	10,906
average cost of award £	950	573	714	714	390

Post report decision appeals

The adjudication stage is the last and final stage of the complaints procedure prescribed by the Code. Although there is no appeal as such, ISCAS consider matters of factual accuracy and process if it is raised by the complainant post decision.

2009 appeals arose in 8 of the 27 cases (29.6% of cases)

2010 appeals arose in 6 of the 22 cases (27.3% of cases)

2011 appeals arose in 7 of the 28 cases (25% of cases)

With the benefit of the new Governance Board ISCAS is making improvements to this by having a transparent process for complaints made about ISCAS, which will be added to the ISCAS website.

Adjudication facts and figures

The number of women accessing adjudication remains much higher than the number of men and has been the case since 2007; 64% of adjudication cases were brought by women in 2011 (Table 8). ISCAS will be exploring this further in 2012 to consider if this is comparable to complainants at stages 1 and 2.

In 2007 complaints about medical practitioners were higher than any other category, seen in table 9. This year ISCAS has seen a significant rise in complaints about Nursing which has been a trend since 2007, however this year the increase was almost 50%. It is important to note that these percentages are for adjudication only and may not reflect the composition of complaints at stages 1 and 2. The number of complaints that have been upheld have been highest with nursing and allied health professionals.

Sharing and Learning from complaints Closing the loop

Listening to complainants, learning from their feedback and, crucially, closing the loop by communicating how the organisation is improving services as a result, is fundamental to the management of patient complaints. A number of complainants tell ISCAS that the outcome they seek is reassurance that other patients will not have to go through the same experience that they have.

Unfortunately, it is not often made clear to the complainant how the organisation has learned from the issues raised. On some occasions, it is not clear to the Adjudicator how, or whether, any actions are being taken internally to improve services.

Anonymised vignette

For example, Mrs Jones had complained about the care she received during her admission to hospital for an operation. There were five heads of complaint: two related to nursing care provided on the ward following surgery and at a follow up appointment to remove her stitches. The other three heads of complaint were administrative in nature, and concerned whether Mrs Jones' priority on the theatre list had taken into account a pre-existing medical condition, difficulties arranging a follow-up appointment, and comments made about her lifestyle behaviours.

The hospital had been swift to apologise to Mrs Jones for inconvenience or distress caused to her, but it had not indicated any learning as a result of the issues raised by her complaint, or outlined any steps taken to improve service quality. The Adjudicator upheld all five heads of complaint and requested that the hospital provide details of any actions it planned to take in response to her feedback.

These included actions to ensure that theatre staff receive information that may impact on a patient's priority for surgery; steps taken to ensure that patients are not left waiting in pain for medication; reviewing patient information to ensure that it covers the risk of stitches being inadvertently left behind; and any learning about the routes by which follow-up appointments are arranged.

The Adjudicator also addressed Mrs Jones' ongoing care needs. She had experienced considerable difficulties in arranging a follow-up appointment, and the hospital had apologised but it was not clear what changes, if any, were planned as a result of the difficulties she had experienced, or whether arranging an appointment would be made any easier. The Adjudicator therefore asked the hospital to assist Mrs Jones in arranging her follow-up appointment.

The hospital responded very positively to the adjudication and shared with the Adjudicator and Mrs Jones the action plan produced in response to her complaint. The action plan outlined a number of measurable improvements to services, including training sessions with staff to address the outcomes of the complaint, clarifying some processes and auditing compliance against others, and reviewing the content of patient information materials. The hospital pointed out that actions such as these were routinely agreed following a complaint. The missing piece of the jigsaw in this case was making this transparent to the complainant and, by doing so, reassuring Mrs Jones that steps were being taken to prevent other patients from experiencing the same problems.

7 steps to better complaints handling

1. Adhering to The Code

Responding to complaints in a timely way is fundamental to good complaints handling. The timescales set out in The Code are designed to ensure that complaints are responded to within a reasonable time period. ISCAS members should ensure that all staff understand the importance of adhering to these timescales and work to avoid situations where complaints become unnecessarily protracted.

2. Ensuring that responses contain key information

ISCAS members should consider adopting templates to ensure that responses to complaints routinely contain the right information. For example, letters acknowledging complaints should always explain the process and the timescales by which the complainant should expect to receive a response and letters of response should always include information about the next stage of the procedures in case the complainant wishes to take their complaint further. The use of templates would help to ensure that complainants get the right information every time.

3. Being clear about the different stages

ISCAS members should consider how Stage 1 is differentiated from Stage 2 within their organisation. This includes being clear about who should handle complaints at Stage 1 and whether that should preclude their involvement in the complaint at Stage 2. It is also important to consider what constitutes a Stage 2 review of a complaint and how the investigation will differ from that at Stage 1.

4. Prepare to meet with complainants

ISCAS members should consider whether offering to meet with the complainant might help to resolve their complaint. Complaints are often multifaceted, and where the complaint concerns clinical issues, it can be particularly difficult to provide in a letter the level of detail necessary to explain what happened and why. Meetings with complainants should, where possible, be at a neutral venue, ideally away from the place where the complainant received treatment. The complainant should be invited to bring a companion for support. The parameters for the meeting should be agreed with the complainant in advance, including the agenda and the desired outcomes. The meeting should be followed up with a letter to the complainant, confirming what was discussed and any agreed actions.

5. Clinical negligence

ISCAS members are expected to suggest that complainants seek independent advice where clinical negligence may have occurred – usually where serious errors have caused or contributed to an injury. Where a complainant has started legal proceedings, handling the complaint under The Code may not be appropriate, however; members should still consider whether any aspects of the complaint are suitable for handling under the complaints procedures. There may also be circumstances in which complainants would prefer to use the complaints procedures instead of pursuing a negligence claim through the courts.

6. Seeking expert advice into complaints

Where ISCAS members seek an expert review at stages 1 or 2 of the complaints procedures, it is important that the expert's opinion is properly documented so that it is open to scrutiny if the complaint progresses further. The expert also needs to be asked to declare any conflicts of interest that could undermine the impartiality of their opinion. This will enable the complainant to understand the degree to which the expert can be considered independent from the hospital and any clinicians involved in their complaint. Experts should indicate the evidence that underpins their opinions and state explicitly where the evidence base is uncertain.

7. Dealing with abusive, unreasonably persistent or vexatious complaints

ISCAS members should have a policy in place to handle situations where people pursue their complaint in a way that can impede the investigation of their complaint, can cause significant resource issues for the organisation, or which involves unacceptable behaviour (such as leaving multiple voicemails or emails, or using abusive language). The policy should set out how the organisation will decide which complainants will be considered vexatious or unreasonably persistent, and how the organisation will respond in those circumstances. ISCAS will be developing its own policy in this area and will provide guidance to members on its application.

Future challenges

ISCAS will be launching the new revised Code of Practice in late 2012 and will be engaging with stakeholders to share what's new and changed with the Code.

The development of the ISCAS Governance Board will continue through the year with an important area being to have further assurances of ISCAS member compliance. ISCAS will be seeking to monitor and review how a member's complaints procedure and complainant experience complies with the principles set out in the Code of Practice. Members should also be making full use of the ISCAS logo and brand to ensure complainants are appropriately signposted and to encourage the use of ISCAS across the wider independent healthcare sector.

Appendix

table 4 adjudication costs

	2007	2008	2009	2010	2011
total cost per annum all providers £	70,307	47,270	59,485	42,203	36,950
average cost per case £	3,519	2,625	2,203	1,918	1,319

table 5 stage 3 complaints adjudicated

	2007	2008	2009	2010	2011
total complaint reports completed	20	18	27	22	28

table 6 complaints against hospital groups

2011

9 hospital groups were involved in complaints.

No new members used the adjudication service for the first time.

The highest number of complaints for a single hospital group in the year was 7, with two other groups having 5 complaints against them.

2010

11 hospital groups were involved in complaints.

4 new members used the adjudication service for the first time.

The highest number of complaints for a single hospital group in the year was 4.

2009

10 hospital groups were involved in complaints.

3 members used the adjudication service for the first time.

The highest number of complaints for a single hospital group in the year was 5, with four other groups having 4 complaints against them.

2008

8 hospital groups were involved in complaints.

The highest number of complaints for a single hospital group in the year was 4.

2007

9 hospital groups were involved in complaints.

The highest number of complaints for a single hospital group in the year was 8.

table 7 independent external adjudication

external panel hearings	2007	2008	2009	2010	2011
total held	4	0	0	1	0

heads of complaint 2011

complaints upheld:
48% heads of complaint were upheld by the Adjudicator, as follows:

medical	37% of all medical complaints were upheld
nursing	63% of all nursing complaints were upheld
allied health professionals	66% of all AHP complaints were upheld
administrative	40% of all administrative complaints were upheld
other issues	78% of all other complaints were upheld

complaints not upheld:
52% heads of complaints were not upheld by the Adjudicator, as follows:

medical	63%
nursing	37%
allied health professionals	34%
administrative	60%
other issues	22%

-

table 8

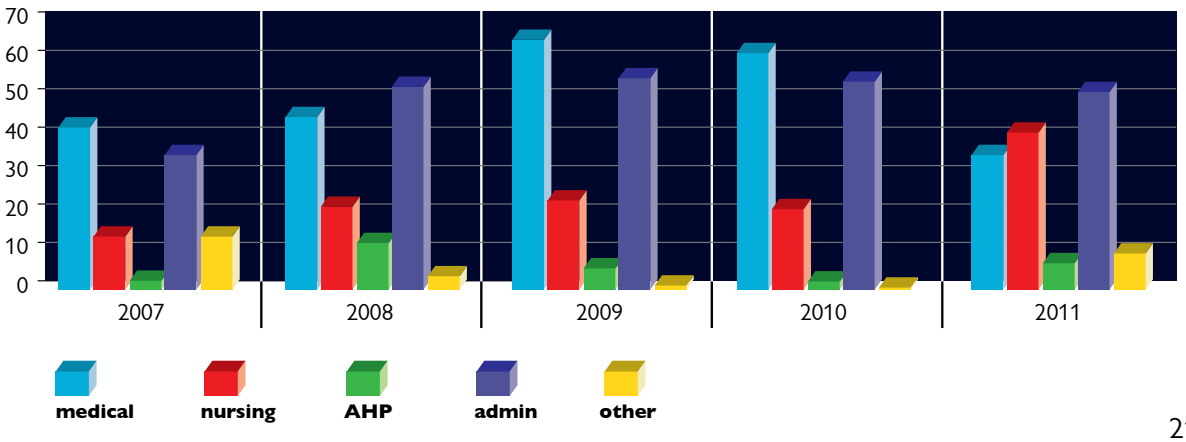
	2007	2008	2009	2010	2011
total complaints adjudicated	20	18	27	22	28
total heads of complaints	103	132	145	150	140
% female complainants	65%	72%	63%	82%	64%
% male complainants	35%	28%	37%	18%	36%
adjudication panels held	4	0	0	1	0

table 9

	2007	2008	2009	2010	2011
total heads of complaint	103	132	146	150	140
medical	43	46	65	63	38
nursing	13	21	23	21	40
allied health professional	1	12	5	1	3
admin	34	51	53	53	50
other	12	2	0	12	9
total heads of complaints dismissed	57	106	77	89	73
	80%	53%	61%	59%	52%
medical	23	38	34	36	24
nursing	9	15	11	12	15
allied health professional	1	12	3	1	1
admin	19	39	29	32	30
other	5	2	0	8	3
total heads of complaints upheld	46	26	69	61	68
	45%	20%	47%	41%	48%
medical	20	8	31	27	14
nursing	4	6	12	9	25
allied health professional	0	0	2	0	2
admin	15	12	24	21	20
other	7	0	0	4	7

table 10

total heads of complaint (stage 3)



Financial

Management Accounts for 2011 – 2012

ISCAS to 30/04/12

Subscriptions (£)	45,297
	45,297
Direct expenses	50,284
Gross profit / (loss)	(4,987)
Overheads	11,660
Net profit/(loss)	(16,647)

The £16,647 loss in 2011-2012 is recoverable from ISCAS Members' by addition to subscriptions in 2012-2013. However, for this year only, and in order to keep subscription increases low, IHAS has agreed to transfer this amount from profits made by IHAS upon contracts undertaken by IHAS for the benefit of IHAS Members.

Annual Subscriptions have been raised for 2012-2013 to fund the budget.

Resources used 2011–2012

ISCAS is administered by a specialist for 100 days full time equivalent (fte) per year whose task is to maintain the Code of Practice, service enquiries from ISCAS Members and the public, maintain records, and receive and prepare papers for Adjudication. He has an administrative assistant for an aggregate 35 days per year fte.

ISCAS Ltd receives support from IHAS at Director level, for which it is charged by IHAS for an aggregate 15 days fte.

Other costs include an internet site, publication of the Annual Report, and public information.

Overheads for the office and supporting activities are divided between the entities hosted by IHAS in proportion to income received, with 27% of the total attributable to ISCAS.

Members

Subscribing Members of ISCAS as at 30 April 2012

BMI Kings Park
Aspen Healthcare Group
Benenden Hospital Trust
BMI Albyn
BMI Carrick Glen
BMI Ross Hall Hospital
BMI Werndale Hospital
BUPA Cromwell Hospital
Cadogan Clinic
Cambian Group
Castle Craig Alcohol & Drug Rehab Clinic
Castlebeck Care (Teesdale) Ltd
Celtic Springs (previously Nucleus Healthcare)
Centre for Sight
Circle
Clock House Healthcare Limited
Fairfield Independent Hospital
General Healthcare Group (BMI hospitals in England)
Glenside Hospital
HCA International
Horder Healthcare
Huntercombe Hospital - Edinburgh
King Edward VII Hospital Sister Agnes
Llanarth Court Partnerships in Care
Ludlow Street Healthcare
Make Yourself Amazing
Marie Stopes International
Mental Healthcare UK Ltd
NE Oasis
New Victoria Hospital
Newport Cardiac Centre
North West Independent Hospital
Nuffield Glasgow
Nuffield Health
Ophthalmic Surgery Centre (North London) Ltd
Priory - Craegmoor Healthcare
Priory Glasgow
Ramsay Health Care UK
Rushcliffe Care Group
Sancta Maria Hospital
Scottish Epilepsy Centre (Quarriers)
SERCO Health
Sk:n Ltd
Spencer Private Hospital
Spire Cardiff Hospital
Spire Healthcare Ltd
Spire Murrayfield Hospital
Spire Yale Hospital
St. Joseph's Private Hospital
Surehaven Glasgow
The Alexander Clinic
The French Cosmetic Medical Company
The Harley Medical Group
The Hospital Group
The Hospital of St John and St Elizabeth
The London Clinic
The Medical Chambers Kensington Limited.
The Priory Group Ltd
The Raphael Medical Centre
The Royal Hospital for Neurodisability
Transform
UK Specialist Hospitals
Ulster Independent Hospital
UME Diagnostics
Vale Healthcare Ltd
Your Excellent Health Service

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