

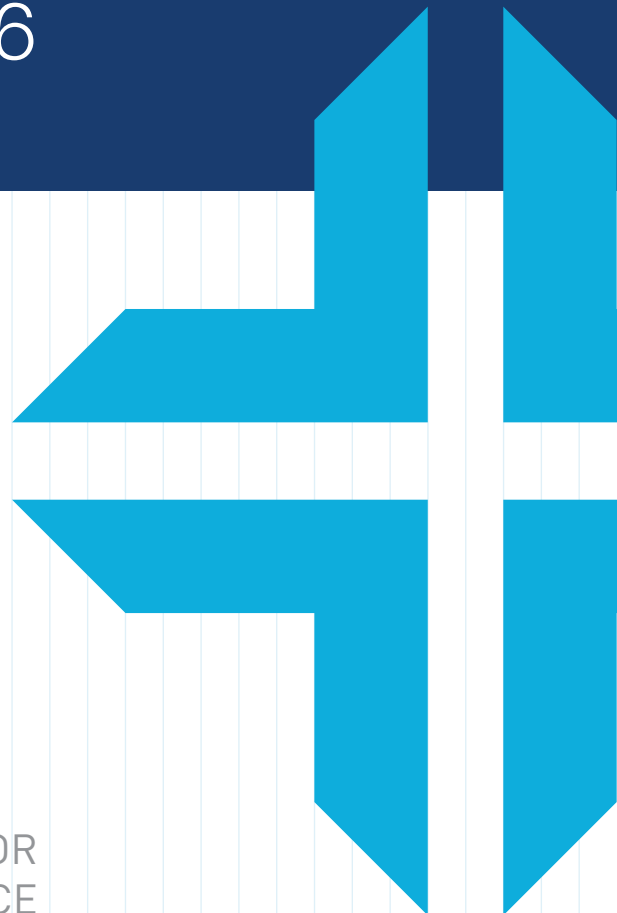


Annual Report 2016



ISCAS

INDEPENDENT HEALTHCARE SECTOR
COMPLAINTS ADJUDICATION SERVICE



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The Independent Sector Complaints Adjudication Service (ISCAS) provides the recognised complaints management framework for the independent healthcare sector.

ISCAS is a voluntary subscription scheme that represents the vast majority (95%) of all independent healthcare providers across the UK.

The ISCAS Complaints Code of Practice sets out the standards for the three stages that ISCAS subscribers are required to meet when handling complaints from patients about their service. The Adjudication Service is the third stage of the complaints process.

Previous annual reports have covered the calendar year from 1 January to 31 December. In the interests of aligning the annual reporting period with the financial year, ISCAS has taken the decision to report on a financial year basis. The statistics presented in this annual report therefore cover a period of 15 months from 1 January 2016 to 31 March 2017. Subsequent annual reports will cover the 12 month period from 1 April to 31 March.



Chair's Report

by **Baroness (Fiona) Hodgson of Abinger, CBE, Chair of the ISCAS Governance Advisory Board**

During the past year ISCAS has focussed on strengthening its structure and systems and has once again turned its attention on to trying to get some resolution for complaints in PPU's (private patient units in NHS hospitals).

The move to CEDR (the Centre for Effective Dispute Resolution) from its former hosting at AIHO at the beginning of 2016 precipitated a re-look at the structure of ISCAS. We have now formed what will become a Board of Directors who oversee the actual running of ISCAS. Karen Harrowing and Stephen Collier have joined the Board along with Graham Massie and John Munton from CEDR. The original governance board becomes the Governance Advisory Board and will deal purely with the ISCAS process. We have also strengthened our financial systems and think that these changes will deliver a more robust organisation.

Once again we have turned our attention to the fact that there still are no independent complaint systems in PPU's. This situation is far from satisfactory and complaints come in to ISCAS from these units which we are unable to deal with. We have now had a meeting with the CQC about this and have also written to the Minister, Philip Dunne MP. The ISCAS view is that there now needs to be some resolution - whether this means that the independent stage comes to ISCAS or to the Ombudsman.

The volume of complaints reaching adjudication has risen, demonstrating the value of the ISCAS service.

I would like to pay particular tribute to Sally Taber - she has worked tirelessly this last year to ensure that the change of location for ISCAS went seamlessly for those using its service. I would also like to thank Jordan Yates for all her hard work in administering ISCAS. I can report that ISCAS has now settled in well at CEDR and that the service continues to improve its effectiveness and efficiency. In addition, its financial position remains sound.

Director's Report

by **Sally Taber, Director of ISCAS**

The important fact about ISCAS is that it provides the consumer with an empathetic, independent, reasonable, and fair route to equitable resolution of any complaint. Providers who subscribe to the ISCAS Code will follow the two-stage internal process but where complaints are not resolved complainants have access to a third stage via the Independent Adjudication process. If this is known to patients, then their confidence will be improved and trust in the provider will be enhanced - but the reverse is true if patients do not understand. Good communication of the principles that will be followed by the provider plays a large part in achieving acceptance of the outcome of adjudication - should things go wrong, then the right structure is in place to find a remedy. ISCAS subscribers are encouraged to ensure that the fact that they subscribe to ISCAS is communicated openly, in particular on their websites.

I welcome the reformation of our governance structure, with three Directors overseeing delivery of the service, backed by the ISCAS Governance Advisory Board whose task is to agree the standards to be met. My thanks go to Karen Harrowing and to Stephen Collier for agreeing to join the Board of Directors and in particular for their contribution to the work of ISCAS so far; and also to Graham Massie and to John Munton for their quickness to learn about the independent healthcare sector and to assimilate it into CEDR. Our Chair Baroness Fiona Hodgson CBE has powerfully chaired the ISCAS Directors and Governance Advisory Board throughout 2016. We owe her enormous thanks for her commitment and dedication to ISCAS.

Good delivery follows from good training of those delivering the service. With this in mind ISCAS offered its subscribers an annual training day, on 28 September at the Royal College of Surgeons in conjunction with Kingsley Napley. Well attended, it received many favourable comments. On October 10th, a seminar dedicated to an ISCAS Adjudicator Fiona Freedland who sadly died prematurely, was held at the Royal Society of Medicine (RSM). The event was chaired by her brother Jonathan Freedland, the well-known journalist and Guardian columnist. I am grateful to all who spoke, and especially to Sally Williams, Principal Adjudicator, for her informative presentation on the ISCAS complaints process that the Royal Society of Medicine choose to promote within the Society. A great accolade and tribute to Fiona.

Our independent adjudicators are geographically diverse but they do come together to discuss methods of adjudicating complaints in order to improve consistency. The independent adjudicators provide feedback to ISCAS on lessons learned and this provides continual improvement to our systems.

ISCAS acceptability with the statutory regulators is firmed by Memoranda of Understanding with the country system regulators: CQC for England; Health Improvement Scotland for Scotland; and Healthcare Inspectorate Wales for Wales. These provide for an anonymous exchange of summary information about complaints adjudicated in the independent sector; and for agreed protocols for handling cases that occur at the interface between independent providers on one hand and public healthcare on the other hand. Appropriate frankness about our work removes suspicions and is the best ambassador for our high standards of conduct towards patients.

The ISCAS Team



GRAHAM MASSIE, ISCAS Company Secretary

Graham Massie is CEDR's Chief Operating Officer, Company Secretary and Chief Financial Officer, a role he also performs for ISCAS. A Chartered Accountant and professional mediator by background, Graham has over 20 years' experience in the conflict management field and is regularly approached by businesses and public sector organisations to act as an independent chair for strategic discussions and deal-making negotiations. He also works with organisations to develop their in-house negotiation skills and conflict management systems, and he leads CEDR's research projects on the cost of conflict.



JOHN MUNTON, ISCAS Manager

John has been working in dispute resolution services for over 25 years and prior to joining CEDR he was the Senior Practice Manager at Keating Chambers where he worked with clients all over the world on the provision of barrister services for disputes related to construction & engineering, energy & natural resources and ICT projects. His extensive experience working with the construction industry is put to good use at CEDR operating the Construction Adjudication Service.



JORDAN YATES, ISCAS Senior Adviser

Jordan has many years of experience as a case administrator at CEDR, providing advice and assistance to consumers across a range of dispute resolution services and schemes. Jordan has also worked for the NHS as a Health Care Assistant. As the ISCAS Senior Adviser, Jordan is the first point of contact for patients and providers alike.

New Code of Practice for Complaints Management

by Sally Williams, Principal Adjudicator

A key activity for 2016 has been work to revise and update the Code of Practice for Complaints Management (the Code). This sets out the good practice standards set by ISCAS for Independent Healthcare Providers (IHPs), as well as for the independent adjudication service provided by ISCAS.

The new Code will be launched at the annual ISCAS training seminar in June 2017. The contents reflect feedback from both the public (via complainants) and IHPs on the previous Code, which was published in May 2013. It also reflects the strides made by ISCAS and the Independent Adjudicators (IAs) in developing stage 3 independent adjudication, bringing about greater transparency and standardisation in the way we adjudicate complaints.

One of the most important features of the new Code is a change in status of IHPs, who are no longer members of ISCAS, but subscribers to the scheme¹. This is important, for although ISCAS is funded in totality by the subscriptions of IHPs², the service provided by ISCAS to complainants and IHPs seeks to offer an impartial way of resolving disputes.

The standards contained in the Code reference the requirements made by the systems regulators, and are based upon the principles for good complaints handling identified by the Parliamentary and Health Services Ombudsman (PHSO). The Code seeks to demonstrate these principles through seven steps to good complaints handling (which were profiled in the annual report for 2015). The primary standard is that each IHP shall have a complaints procedure that is aligned with the ISCAS Code and relevant regulations.

The three-stage process remains:



¹ An up-to-date listing of ISCAS subscribers is available on our website, www.iscas.org.uk

² In addition to annual subscription fees, IHPs pay the cost of adjudications on a case by case basis.

An efficient complaints process demonstrates confidence in the service offered and a commitment to the highest standards of practice.

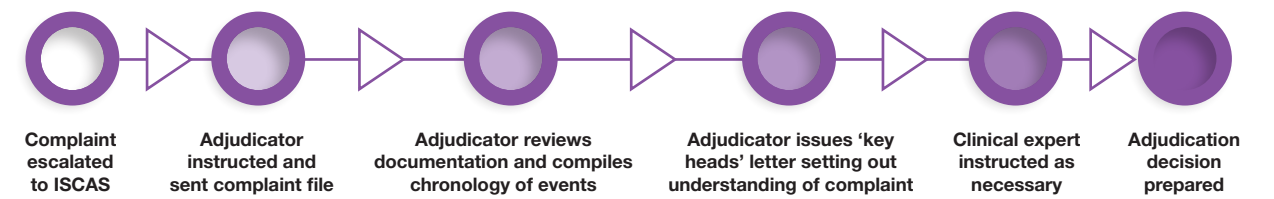


The new Code places emphasis on getting stage 1 right. If complaints are responded to effectively when they are first raised, then there should be less need for subsequent stages of the process. The standards for stage 1 are more explicit, to assist the IHP to structure their complaints handling at this stage. This includes an expectation on hospitals and clinics to offer complainants a face to face meeting to talk through their concerns and agree the key heads of complaint. IHPs are prompted to, where relevant, review clinical records and seek statements from staff, including those with practising privileges, and to ensure there is a good documentary trail. This standard reflects issues arising from adjudications about the quality of some complaint investigations at local level.

The Code is clearer over the delineation of stages 1 and 2. The objective of stage 2 is not to repeat the process followed at stage 1, but to bring oversight to how the complaint was handled at stage 1. The new Code allows for greater flexibility at stage 2, for example, to enable a further response on a specific issue from the hospital or clinic, or to facilitate a meeting between the complainant and the responder at stage 1.

The standards are more precise in terms of the process at stage 3. This follows developments in the adjudication service since 2013 and greater systematisation of the ways the team of IAs conduct adjudications and exercise their discretion to award a goodwill payment. There is a stronger emphasis on IAs making observations regarding the IHP's compliance with the Code and highlighting points of learning for the organisation. The IA will, where appropriate, advise the IHP to share with the complainant details of how the organisation has learned from the complaint and any changes made as a consequence. There is a new requirement for IHPs to, where requested, confirm in writing implementation of any learning points. Themes arising from these learning points will be reported in the ISCAS annual report.

Overview of stage 3 adjudication process



Monitoring and improvement is also strengthened by the new Code. IHPs are expected to undertake an annual self-assessment of compliance against the Code's standards and to share this with ISCAS as a condition of annual renewal of its subscription. ISCAS will provide an overview of how IHPs are performing against the Code based upon the self-assessments, themes arising from IA decisions and other ISCAS activity. It will also undertake performance review meetings with IHPs that repeatedly fail to meet the Code's standards, and it will take steps to cancel the subscription of any IHP that persistently fails to meet the standards or seek to improve its complaints handling.

Some timeframes have altered - for example, the standard for acknowledgement of a complaint has increased from two to three working days, reflecting that many IHPs are experiencing a rise in the number of complaints, with an impact on the organisational resource required to respond. The Code introduces timeframes by which each stage should be completed, with the expectation that most cases will complete stage 1 in three months, and the same for stage 2. The timeframe for stage 3 adjudication is aligned with the PHSO (three to six months in most cases and 98% within a year), reflecting the nature of adjudication work and the need for expert clinical advice (which can lengthen the process quite considerably). There are new service standards by which ISCAS conducts stage 3, including timeframes for checking with IHPs that earlier stages of the

process have been exhausted and for assigning an IA to a complaint. There are also new expectations on IHPs in terms of responding to requests from ISCAS.

The Code is more explicit regarding the types of complaint that are not covered, including unlawful acts, breaches of the provisions of the Mental Health Act, and financial disputes. It also covers new things however; an important new addition is with respect to mediation. ISCAS is working with CEDR to explore the suitability of mediation in circumstances where adjudication is not appropriate.

In tandem with the Code review, ISCAS has updated its policy for handling unacceptable behaviour by complainants, which offers a framework for IHPs to use. This new policy will, together with the Code, be available on the ISCAS website from June 2017. These documents will be complemented by a Patient Guide that provides an overview of the standards in an accessible format.

Future-proofing any Code such as this is a challenge. This new Code seeks to be more comprehensive, targeted at the areas in which guidance and standards are most needed, and set in the context of broader regulatory developments. The overriding objective is to provide a framework for good complaints handling in the independent healthcare sector for several years to come.



ISCAS Activity, Facts and Figures

A significant amount of ISCAS time is committed to helping people work through the complaints process ahead of and during the independent adjudication process, and to advising about alternative ways to pursue complaints about non-subscribers.

Referrals to ISCAS

At the Independent Adjudication stage, the majority of complainants are referred to ISCAS by ISCAS subscribers. This continues the trend from the previous reporting period. Table 1 shows how people were signposted to ISCAS before their complaint has reached independent adjudication.



Table 1: How people hear about ISCAS prior to Independent Adjudication

- 57% ISCAS subscriber information
- 38% Internet search
- 5% Parliamentary & Health Service Ombudsman

Complaints managed by ISCAS

From January 2016 to March 2017, a total of 249 complainants contacted ISCAS with a concern via telephone, email or letter. Of the complainants that contacted ISCAS with a concern, 78% (194) of the contacts related to ISCAS subscribers. The remaining 22% of contacts relating to non-ISCAS subscribers were signposted to other organisations where possible.

Of the 194 contacts, 106 complainants were forwarded to an independent adjudicator. There were a further four complainants who began the ISCAS Adjudication process but resolved their cases with the subscriber instead of progressing to Independent Adjudication.

The ISCAS Management Team has an important role in managing complainant expectations, particularly when they are considering progressing to Independent Adjudication. Some complainants have unrealistic expectations about the possible outcomes of adjudication - seeking a refund, revision surgery and/or financial compensation. These complainants (approximately 80 in 2016/17) are sign-posted to other forms of redress.

Adjudication facts and figures

Across the 106 complaints that have proceeded to Independent Adjudication in this reporting period, 78 have received a final decision from an adjudicator. The remainder are in the adjudication process.

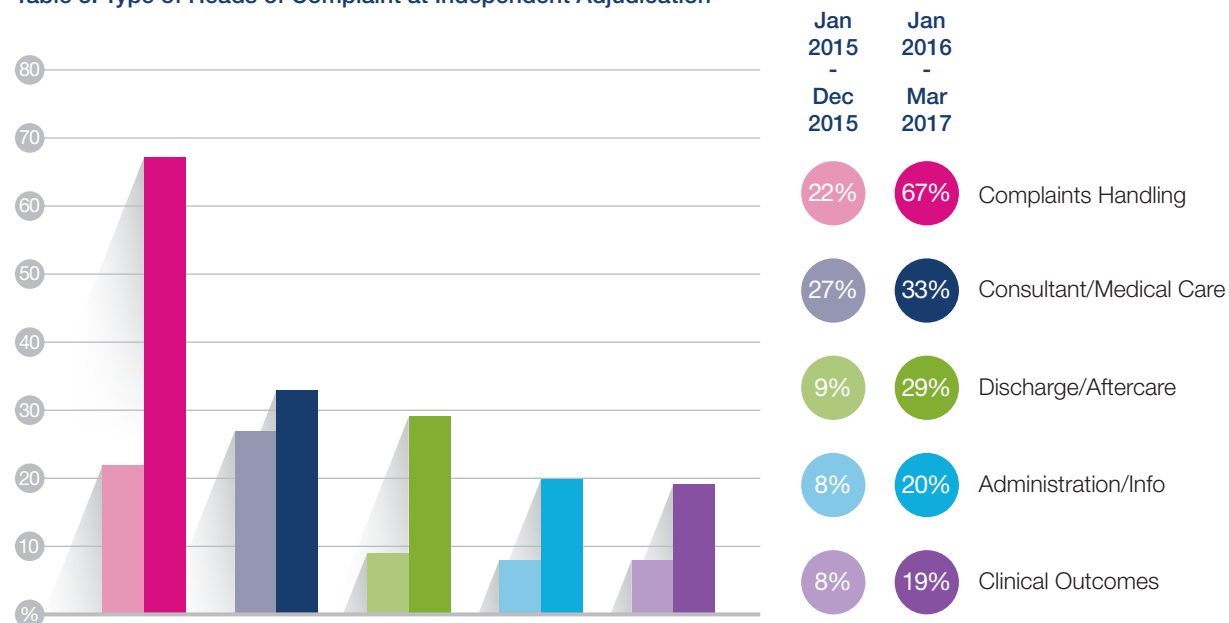
Of the 78 complaints that have been adjudicated on, adjudicators identified 240 Heads of Complaint.

Table 2: Total number of adjudicated complaints and heads of complaint

	2010	2012	2014	2015	Jan 2016 - Mar 2017
Total number of complaints adjudicated	22	38	40	54	78
Total heads of complaints	150	178	151	161	240

The following table shows the five largest categories of Heads of Complaint.

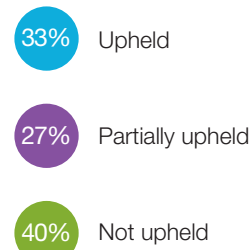
Table 3: Type of Heads of Complaint at Independent Adjudication



In each decision report, adjudicators either: 'uphold', 'partially uphold' or 'do not uphold' a particular head of complaint. The following table illustrates that the majority (60%) of complaint heads are either 'upheld' or 'partially upheld' by adjudicators, although this majority is reduced from the 71% of 'upheld' or 'partially upheld' complaint heads reported on in 2015.



Table 4: Heads of complaint upheld at the Independent Adjudication stage



Adjudication costs

Individual ISCAS subscribers bear the cost of adjudications. The average cost of an adjudication case from January 2016 to March 2017 was £2,762.

Table 5: Overall Independent Adjudication costs from January 2016 to March 2017

	£
Adjudicator costs	£142,733
Goodwill payment costs	£42,840
Clinical expert costs	£29,843

Goodwill payments were made in 87% of cases, which is a slight increase from the 83% of cases where goodwill payments were made in 2015. However, the average size of a goodwill payment fell to £630, from an average of £714 in 2015.

Table 6: Goodwill payments

	2010	2012	2014	2015	Jan 2016 - Mar 2017
Cases in which payments made	17	19	34	45	68
% of cases attracting a payment	77%	50%	85%	83%	87%
Total costs	£12,150	£11,500	£16,300	£29,263	£42,840
Average award	£714	£605	£479	£714	£630

Expert clinical advice

Adjudicators may require the use of expert clinical advice to determine if the clinical care provided by an ISCAS subscriber fell short of reasonable expectations. Clinical reports are made available to complainants and providers when the adjudicator issues their decision.

19% of cases required expert clinical advice in this reporting period, which was a decrease from the 26% in 2015. The total costs associated with expert clinical advice in this reporting period came to £29,843.



ISCAS

INDEPENDENT HEALTHCARE SECTOR
COMPLAINTS ADJUDICATION SERVICE

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