

Memorandum of Understanding between Healthcare Inspectorate Wales and the Independent Sector Complaints Adjudication Service

August 2019

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1. The purpose of this Memorandum of Understanding (MoU) is to set out a framework to support the working relationship between Healthcare Inspectorate Wales (HIW) and the Independent Sector Complaints Adjudication Service (ISCAS).
2. The working relationship between HIW and ISCAS is part of the maintenance of an assurance system for healthcare in Wales, which promotes patient safety and high quality healthcare.
3. HIW is the independent inspectorate and regulator of healthcare in Wales. ISCAS is the recognised complaints management framework in the independent healthcare sector. The Public Service Ombudsmen Wales (PSOW) may also be involved in the resolution of complaints, but only if the complainant received some NHS treatment for the issue complained about (paid for or commissioned by NHS Wales) and they paid privately for treatment at some point for the same issue. HIW has a MoU with PSOW for the purpose of information and concerns sharing.
4. This MoU does not override the statutory responsibilities and functions of the HIW and ISCAS and is not enforceable in law. However, HIW and ISCAS agree to adhere to the contents of this MoU.

Principles of cooperation

5. HIW and ISCAS intend that their working relationship will be characterised by the following principles:

- The need to make decisions which promote patient safety and high quality healthcare.
- Respect for each organisation's independent status.
- The need to maintain public and professional confidence in the two organisations.
- Openness and transparency between the two organisations, as appropriate.
- The need to use resources effectively and efficiently.
- Awareness within the two organisations of the benefits of following these principles

6. HIW and ISCAS are also committed to an assurance system for healthcare in Wales which is transparent, accountable, proportionate, consistent, and targeted: the principles of better regulation.

Areas of cooperation

The working relationship between the HIW and ISCAS involves cooperation in the following areas:

Cross-referral of concerns

7. Where HIW or the ISCAS encounters a concern, which it believes falls within the remit of the other, they will at the earliest opportunity convey the concern and relevant information to a named individual with relevant responsibility at the other organisation. In the interest of patient safety, the referring organisation will not wait until its own investigation has concluded. This only applies to only those settings which fall under the regulatory remit of HIW.

8. In particular, HIW will refer in a timely manner to ISCAS:

- Any concerns and relevant information about an independent healthcare organisation's internal process for complaint resolution, if that organisation subscribes to ISCAS.

9. In particular, ISCAS will refer in a timely manner to HIW:

- Any concerns and relevant information about an independent healthcare organisation's quality of care and internal process for complaint resolution, if that organisation subscribes to ISCAS. Annex C provides detailed information about the sharing.
- Any concerns and relevant information about an independent healthcare organisation's quality of care even if not a current subscriber of ISCAS, but falls under the remit of HIW

Exchange of information

12. Cooperation between HIW and ISCAS will often require the exchange of information. All arrangements for collaboration and exchange of information set out in this MoU and any supplementary agreements will take account of and comply with section 76 Health and Social Care Act 2008, the General Data Protection Regulation 2018, and any HIW and the ISCAS codes of practice, frameworks or other policies relating to confidential personal information.

Resolution of disagreement

16. Any disagreement between HIW and ISCAS will normally be resolved at working level. If this is not possible, it may be brought to the attention of the MoU managers identified at Annex B who may then refer it upwards through those responsible, up to and including the Chief Executive of HIW and the Director of ISCAS who will then jointly be responsible for ensuring a mutually satisfactory resolution.

Duration and review of this MoU

17. This MoU originally came into effect when it was signed by the Chief Executive of HIW and the Director of ISCAS. This MoU is not time-limited and will continue to have effect unless the principles described need to be altered or cease to be relevant. The MoU may be reviewed at any time at the request of either party.

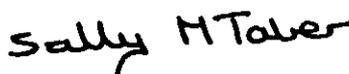
18. Both organisations have identified a MoU manager (identified in Annex B) and these will liaise as required to ensure this MoU is kept up to date and to identify any emerging issues in the working relationship between the two organisations.

19. Both HIW and ISCAS are committed to exploring ways to develop increasingly more effective and efficient partnership working to promote quality and safety within their respective regulatory remits.

Signed

Dr Kate Chamberlain
Chief Executive
Healthcare Inspectorate Wales

Sally Taber
Director
ISCAS



Annex A

Responsibilities and functions

Healthcare Inspectorate Wales (HIW) and the Independent Sector Complaints Adjudication Service (ISCAS) acknowledge the responsibilities and functions of each other and will take account of these when working together.

Responsibilities and functions of HIW

1. HIW is the independent inspectorate and regulator of healthcare in Wales.
2. HIW carries out its functions on behalf of Welsh Ministers and, although part of the Welsh Government, protocols have been established to safeguard its operational autonomy. HIW's main functions and responsibilities are drawn from the following legislation:
 - Health and Social Care (Community Health and Standards) Act 2015;
 - Care Standards Act 2000 and associated regulations
 - Mental Health Act 1983 and the Mental Health Act 2007
 - Mental Capacity Act 2005
 - Ionising Radiation (Medical Exposure) Regulations 2017 and Amendment Regulations 2018.
 - Independent Health Care (Wales) Regulations 2011

3. HIW's primary focus is on:

- Making a significant contribution to improving the safety and quality of healthcare services in Wales
- Improving citizens' experience of healthcare in Wales whether as a patient, service user, carer, relative or employee
- Strengthening the voice of patients and the public in the way health services are reviewed
- Ensuring that timely, useful, accessible and relevant information about the safety and quality of healthcare in Wales is made available to all.

4. HIW's core role is to review and inspect NHS and independent healthcare organisations in Wales to provide independent assurance for patients, the public and others that services are safe and of good quality. Health services are reviewed against a range of published standards, policies, guidance and regulations. As part of this work HIW will seek to identify and support improvements in services and the actions required to achieve this. If necessary, HIW will undertake reviews and investigations where there appears to be systematic failures in delivering healthcare services, to ensure that rapid improvement and learning takes place.

Responsibilities and functions of the Independent Healthcare Sector Complaints Adjudication Service

1. ISCAS is the recognised complaints management framework in the independent healthcare sector. ISCAS is a voluntary subscription scheme that includes the vast majority of all independent healthcare providers across the UK. The remit has recently been extended to include Private Patient Units (PPUs) and providers of Independent Ambulance Services. Since 2016 ISCAS has operated independently of any trade association and is currently hosted by the Centre for Effective Dispute Resolution (CEDR).

Annex B

Contact details

Healthcare Inspectorate Wales

Government Buildings
Rhydycar Business Park
Merthyr Tydfil
CF48 1UZ

Independent Healthcare Sector Complaints Adjudication Service

70 Fleet Street
London
EC4Y 1EU

Named contacts between the HIW and ISCAS are as follows:

Chief Executives (internal escalating policies should be followed before referral to Chief Executive of HIW and the Director of ISCAS)

Dr Kate Chamberlain
Chief Executive
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Sally Taber
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HIW

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ISCAS

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Chief Operating Officer
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Annex C

Data provided by ISCAS

Data period	Data sub-topic/ element
Ongoing: as and when produced following adjudication decisions	<ul style="list-style-type: none">a) All upheld or partially upheld stage 3 adjudication decisions regarding ISCAS subscribing organisations (with the complainant's details anonymised); andb) For above, accompanying written communication to the provider organisation (with complainant's details anonymised).
Ongoing	<ul style="list-style-type: none">c) The names of any provider without an independent adjudication process in place and where ISCAS has advised complainants to contact HIW directly.
Monthly/ quarterly updates as stipulated	<ul style="list-style-type: none">d) A report in an agreed format that summarises the adjudication decisions (three to four times per year, following each ISCAS Advisory Board meeting);e) An up-to-date report listing the names of all ISCAS subscribing organisations, three to four times per year, following each ISCAS Advisory Board meeting.