

ISCAS Position Statement

Private Patient Complaints - NHS Locations in England

Position Statement:

This statement is intended to clarify and communicate the position of the Independent Sector Complaints Adjudication Service (ISCAS) to NHS managers responsible for healthcare service provision to private patients in the NHS in England.

ISCAS is a not-for-profit organisation with the vision to create the environment in which all patients have access to high quality complaints systems. Our mission is to provide access to independent adjudication and promote compliance with the ISCAS Code of Practice as the recognised industry standard for complaints handling, wherever patients are treated in independent healthcare and NHS Private Patient Units (PPUs).

The ISCAS position is that:

“Private patients treated in NHS locations in England must be made aware that they are unable to escalate complaints to the Parliamentary and Health Service Ombudsman (PHSO). Providers should ensure that there are processes in place to make available information about how private patients can escalate complaints to an appropriate body, such as ISCAS. When patients seek adjudication by ISCAS from organisations that have not engaged with an appropriate body then ISCAS will refer the organisation under our information sharing agreement with the Care Quality Commission.”

Regulatory background

The ISCAS position is in accordance with the regulatory framework operated through the Care Quality Commission (CQC). ISCAS is considered an “appropriate body” referenced by CQC in the [related guidance to Regulation 16 of the Fundamental Standard](#)¹. Information must be available to a complainant about how to take action if they are not satisfied with how the provider manages and/or responds to their complaint. Information should include the internal procedures that the provider must follow and should explain when complaints should/will be escalated to other appropriate bodies.

Providers that do not have independent review stages should regularly review their complaints resolution processes to ensure they are not disadvantaging complainants as a consequence.

[CQC inspection frameworks](#) for NHS Trusts offering private patient services explicitly refer to ISCAS. For example the frameworks for core services for surgery and medical now refer to:

- “Where the internal complaints process has been exhausted, what arrangements are in place for the independent review of complaints where the patient is receiving non-NHS funded care (e.g. is the service a subscriber of the Independent Services

¹ Health and Social Care Act 2008 (Regulated Activities) Regulations 2014; Regulation 16: Receiving and acting on complaints



Complaint Advisory Services (ISCAS) and if not, does the provider have an alternative arrangement?). This includes NHS Private Patient Units, whose patients do not have access to the PHSO if their care is not NHS funded.”

Complaints, including the process for private patients, will remain a key area of CQC’s new single assessment framework and regulatory approach.

The NHS website [How to complain to the NHS](#) is only relevant for NHS funded treatment and refers to escalating complaints to the PHSO. Therefore this and other information for NHS funded care should not be provided to private patients treated in the NHS.

ISCAS is provided as a link for complaints about private healthcare by CQC on their website [“Complain about a hospital, community or mental health service”](#). This section of the CQC website signposts patients who remain dissatisfied with the response from the provider. CQC differentiates the point of escalation based on how healthcare has been funded, namely PHSO for NHS funded treatment and ISCAS for privately funded treatment. ISCAS is provided as a link for complaints by PHSO website page on [Private Healthcare](#).

Listening to patients

In July 2020 the Patients Association facilitated a [focus group](#) with patients who had received private and NHS funded healthcare and had complained about their treatment. The focus group concluded that “it would not be clear to the person on the street” that private patient complaints cannot be escalated to the PHSO. The focus group stated that “most patients wouldn’t know where to find it [information] or that it even existed.” The focus group said that information about how to escalate private patient complaints should be simple information guides in one page if possible:

- “Should be part of the information sent with the admission letter and then explained by the consultant at the initial consultation.”
- “A pack of information including how to complain given to the patient at the outset. A leaflet, posters around the hospital, in GP waiting rooms etc.”

NHS and private patients continue to say that they do not understand how to escalate complaints in both the NHS and the independent sector. This was highlighted in the [Paterson Inquiry Report](#) published in February 2020, which recommended that:

- “Information about the means to escalate a complaint to an independent body is communicated more effectively in both the NHS and independent sector.”

Again in the [First Do No Harm](#) report published in July 2020, Baroness Cumberlege referred to a defensive healthcare system that does not listen to the concerns of patients. Within theme 5 on complaints the report recommended that:

- “Patients across the NHS and private sector must have a clear, well- publicised route to raise their concerns about aspects of their experiences in the healthcare system.”
- “Organisations who take complaints from the public should designate a non-executive member of the board to oversee the complaint-handling processes and outcomes, and ensure that appropriate action is taken.”

Conclusion

ISCAS has been operating an appropriate scheme for private patient complaint adjudication for over 20 years and will work with patients to continually improve information. It is our position that all information regarding escalation of complaints should be written for the target audience, namely what is relevant for a private patient or an NHS patient. This is about getting the basics right and implementing existing processes which aligns with [Nadine Dorries' oral statement to Parliament](#) on the Paterson Inquiry report:

- "...regardless of how their care is funded, all patients should be confident the care they receive is safe, meets the highest standards, with appropriate protections..... The inquiry does not jump to a demand for the NHS and the independent sector to invent multiple new processes, but to actually get the basics right, implement existing processes, and for all professional people to behave better and to take responsibility."

In England patients receiving NHS funded care can escalate complaints to the Parliamentary and Health Service Ombudsman (PHSO), whether the treatment is delivered in the NHS or the independent sector. However, private patients treated in the independent sector or in NHS private patient units/beds cannot access the PHSO.

Therefore private patients treated in NHS locations in England who complain and remain dissatisfied must be signposted by the provider to an independent appropriate body such as ISCAS. This is in line with CQC guidance and recommendations from recent independent reviews.

Furthermore, the designated non-executive of the NHS Board where private patients are treated must be familiar with the different appropriate bodies for escalating complaints. They must understand how the system varies between NHS funded and privately funded treatment in order to effectively oversee the complaint handling process.

Further information about ISCAS can be found on the website: <https://iscas.cedr.com/>.

Website links:

Last accessed September 2022

CQC link on Regulation 16: Receiving and acting on complaints references ISCAS:

<https://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulation-16-receiving-acting-complaints#hide1>

CQC link to NHS Trusts information on Core Services and Inspection Frameworks:

<https://www.cqc.org.uk/guidance-providers/nhs-trusts/core-services-nhs-trusts>

NHS link on how to complain to the NHS references PHSO: <https://www.nhs.uk/using-the-nhs/about-the-nhs/how-to-complain-to-the-nhs/>

CQC link on how to complain: <https://www.cqc.org.uk/contact-us/how-complain/complain-about-hospital-community-or-mental-health-service>

PHSO link on private healthcare complaints: <https://www.ombudsman.org.uk/making-complaint/if-we-cant-help/private-healthcare>

ISCAS welcomes complaint recommendations in the Paterson Inquiry Report:

<https://iscas.cedr.com/paterson-report-recommends-improvements-in-complaints-handling/>

ISCAS position on escalation of complaints following Cumberlege Review:

<https://iscas.cedr.com/first-do-no-harm/>

ISCAS engages with the Patients Association facilitate Focus Group:

<https://iscas.cedr.com/patient-focus-group/>

Oral statement to Parliament on the report of the independent inquiry into the issues raised by Paterson: <https://www.gov.uk/government/speeches/nadine-dorries-statement-on-the-paterson-inquiry-report>