Code of Practice for Complaints Management
Executive Summary

Good complaints management is an integral component of good governance and quality management. This Code, for independent healthcare providers that subscribe to the Independent Sector Complaints Adjudication Service (ISCAS), is based upon the principles for good complaints handling identified by the Parliamentary and Health Services Ombudsman (page 5). The Code seeks to demonstrate these principles through seven steps to good complaints handling, which are embedded in a three-stage complaint management process (pages 6 and 7).

About the ISCAS Code

In all businesses good complaint management is a key aspect of the organisational leadership commitment to customer focus, and should be part of the wider quality management system. The focus on enhancing customer satisfaction should be maintained and the opportunity for continual quality improvement should be applied when receiving customer feedback, including from complainants. The increasing use of technology and use of social media means that there needs to be consistent approaches to complaint management at all levels in the organisation.

The ISCAS Code of Practice for Complaints Management (the ‘ISCAS Code’) provides the good practice standards set by ISCAS for subscribing Independent Healthcare Providers (IHPs) across the UK. A full list of subscribing organisations can be found on the ISCAS website.¹

The ISCAS Code provides the framework for the management of complaints made by patients, and others on their behalf (‘complainants’), about the provision of healthcare services by subscribing IHPs. The term ‘shall’ is used to indicate the requirement of an overriding principle; the term ‘should’ is used to state how the principle is met.

The ISCAS Code also sets the good practice standards for independent adjudication services, which are provided by ISCAS and offer an impartial way of resolving disputes between complainants and subscribing IHPs. The costs associated with independent adjudication are met by the relevant IHP and not by the complainant.

ISCAS is not a regulator and has no powers to take enforcement action against a subscribing IHP. It will however, take other actions as appropriate including termination of the subscription of IHPs that fail to meet these standards or who bring the Code into disrepute. The standards reference the requirements made by the systems regulators (see ‘regulatory requirements’ on page 4).

The Code does not exclude other good practice models (such as the use of patient advocates) and encourages IHPs to continually improve the effectiveness of their complaints handling in light of best practice and good governance.

¹. Including hospitals, clinics and doctors working privately.
What the ISCAS Code covers

Self-funded patients
The Code covers patients who self-funded their treatment in a subscribing IHP. It also applies where someone else makes a complaint on behalf of the patient (e.g. a relative).

Treatment paid for by insurance
The Code covers complaints made by (or on behalf of) patients treated in a subscribing IHP, whose care was paid for through an insurance scheme.

Clinicians with practising privileges
The ISCAS Code covers complaints about doctors and other healthcare professionals working within subscribing IHPs, even where they are not directly employed by the organisation and have instead been granted practising privileges - this means they agree to provide certain services within the hospital or clinic as independent practitioners.

Unlawful acts
Allegations that a healthcare provider has broken the law are not dealt with by this Code and should be referred to the police. This includes any allegations of unlawful conduct by individual members of staff. For example, it is for the courts to determine objectively whether an assault has occurred.

Mental Health Act
This Code does not cover breaches of the provisions of the Mental Health Act, or complaints that question whether the Act has been properly applied in a specific instance. The Care Quality Commission monitors how the Mental Health Act is used in England (the other systems regulators will have their own arrangements). More information is available at the following webpages: http://www.cqc.org.uk/contact-us/how-complain/complain-about-use-mental-health-act

Financial disputes
The Code does not provide for complainants who are seeking a refund or to claim money owed to them. In these instances, complainants should make a claim to the courts (often known as going to the ‘small claims court’). For more information, go to: https://www.gov.uk/make-court-claim-for-money/overview

Clinical negligence
The Code does not provide for people who are seeking financial compensation because they believe negligence has occurred and that there is a duty on the independent healthcare provider to compensate for that. If a complaint potentially appears to have arisen because of clinical negligence and compensation is sought, and/or might be awarded if a clinical negligence claim is successfully pursued, it may be appropriate to seek legal advice. This reflects the fact that it is beyond the complaints process to establish causation, liability or negligence, which are concepts defined by law and, therefore, tested in the courts. Even if independent advice is being sought about possible clinical negligence, the ISCAS Code requires that the complaints procedure is continued. ISCAS is not able to assist with the pursuit of a clinical negligence claim. Specialist independent advice and support can be accessed from the ISCAS website.

Private medical insurance products

NHS patients
The Code does not cover complaints from NHS funded patients in a subscribing IHP facility. NHS patients should use the NHS complaints procedures.

What the ISCAS Code does not cover

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Regulatory requirements

In healthcare organisations the quality governance framework is underpinned by good governance at professional, operational and organisational levels. Healthcare professionals work to deliver person-centred care, which means putting patients and their families at the centre of decisions. Responses to all kinds of feedback, including via complaints, are also person-centred and are informed by healthcare professionals.

In healthcare organisations, the quality principles are set within the context of the relevant system regulatory framework. An overview of the national system regulators’ roles in complaint handling is provided in Box 1.

ISCAS has agreed memoranda of understanding with the system regulators in England, Wales and Scotland, and the Code is recognised by these regulatory bodies. All adjudication decisions regarding IHPs in these countries are shared with the relevant regulatory body (the complainant’s details are anonymised) to support the quality improvement of services. For more details see http://www.iscas.org.uk/helpful-links

In Scotland IHPs are required to adopt the Independent Healthcare Complaints Procedure published by HIS in which ISCAS is referred. HIS encourages complainants to discuss concerns with staff most closely involved, or with those whom complainants feel may be able to resolve the issues as quickly and informally as possible. However, HIS will also handle complaints that have not been resolved by the provider or ISCAS.

Box 1: System regulators

Care Quality Commission (CQC)
The CQC is the regulator for health and adult social care in England. It does not handle complaints (except for complaints from people whose rights are restricted under the Mental Health Act, or their representatives, about the way staff have used their powers under the Act), nor does it provide an arbitration service. However, it collects information about how independent healthcare services meet regulatory requirements and can act where an offence has been committed.

Healthcare Improvement Scotland (HIS)
HIS is the national improvement organisation for Scotland and part of NHS Scotland. HIS regulates independent healthcare services in Scotland. HIS will consider complaints that have not been resolved by the provider or ISCAS.

Healthcare Inspectorate Wales (HIW)
HIW is the system regulator for Wales, including providers of health services in the independent sector. HIW’s statutory duty does not include investigating complaints, although HIW invites service users to share their complaints.

Regulation and Quality Improvement Authority (RQIA)
The RQIA is the systems regulator for Northern Ireland with responsibility for health and social care inspection. RQIA does not investigate complaints, but it ensures all regulated services have an effective complaints procedure and investigate complaints thoroughly.

1. Care Quality Commission
   http://www.cqc.org.uk/content/contact-details-healthcare-complaints
2. Independent Healthcare Complaints Procedure
   http://www.healthcareimprovementscotland.org/about_us/contact_us/complaints.aspx
3. Healthcare Inspectorate Wales
   http://www.hiw.org.uk/contactus/provide/?lang=en
4. Regulation and Quality Improvement Authority
   https://www.rqia.org.uk/guidance/guidance-for-the-public
Principles

All IHPs that subscribe to ISCAS shall have complaints handling procedures that reflect the good complaint handling principles of the Parliamentary and Health Service Ombudsman:

1. **Getting it right**
   Quickly acknowledging and putting right cases of maladministration or poor service that led to injustice or hardship. Considering all the factors when deciding the remedy with fairness for the complainant and, where appropriate, others who also suffered.

2. **Being customer focused**
   Apologising and explaining, managing expectations, dealing with people professionally and sensitively and seeking remedies that take into account individual circumstances.

3. **Being open and accountable**
   Being clear about how to complain, giving reasons for decisions, and keeping accurate records.

4. **Acting fairly and proportionately**
   Seeking fair and proportionate remedies, without bias or discrimination.

5. **Putting things right**
   Considering all forms of remedy such as apology, explanation, remedial action or financial offer.

6. **Seeking continuous improvement**
   Using lessons learned to avoid repeating poor service and recording outcomes to improve services.

These are the principles that apply to public bodies. IHPs are not public bodies, and ISCAS does not provide a public service. However, the principles referred to are those that would be expected by the public and service users and therefore also apply to IHPs. These principles are further developed in the ISCAS seven steps to good complaints handling.
Seven steps to good complaints handling

Step 1: EMPATHISE - this means approaching the situation from the complainant’s perspective. It might involve reassuring the complainant that their ongoing treatment will not be affected by their complaint, or acknowledging the impact on them of the events they have complained about, or expressing sympathy with the trouble or suffering the complainant reports having experienced.

Step 2: LISTEN - this means developing an understanding of their experience from the complainant’s perspective. One of the most helpful things is to offer to meet with complainants. Meetings can have several benefits, from showing that the complaint has been taken seriously and demonstrating that the organisation is in listening mode, to clarifying the key matters of complaint, providing an opportunity to resolve concerns early on, and building rapport and trust.

Step 3: INVESTIGATE - where complaints investigations are done well, the investigation gets underway swiftly, it has a clear structure and defined scope, and there is a sense of momentum and a defined end. All relevant parties should be asked to input into the investigation, particularly clinicians. Another marker of a good investigation is that conflicts of evidence are reconciled, and complainants are helped to understand the relevance of clinical opinion. There should be a robust documentary record of the investigation.

Step 4: REFLECT - this means making sense of the evidence that has been amassed and the outcome of the investigation. Reflective questions include: Has the investigation got to the bottom of what occurred?

What further steps, if any, are necessary before a full response can be made? Which aspects of the complaint, if any, should be upheld? How can we learn from this? How can we prevent the same problems from happening again? How well have we managed this complaint? What might we do differently if a similar situation were to happen?

Step 5: RESPOND - doing so, within the specified timeframes (or giving reasons why this is not possible and when a full response will be made), and being clear what the organisation has found. It means demonstrating candour regarding any failings, and being explicit about deficiencies and what should have happened, and any steps taken to prevent the same problems occurring again. Responding also means being clear whether the complaint is upheld, and what that means.

Step 6: REMEDY - complainants seek a range of remedies, from financial redress to an apology and assurances that steps will be taken to avoid the same problems happening again. It is important to acknowledge the remedy that the complainant seeks and whether the organisation is prepared to grant it, and the reasons why. Wherever possible, the response should try to return the complainant to the position they would have been in if the events concerned had not happened. Any apology should be clear and unequivocal.

Step 7: ACT - this means ensuring that change happens and that the outcome is communicated to complainants. It is about describing what action has been taken to learn lessons and what has or will be done to prevent the same shortcomings from arising again.
Mediation

In partnership with the Centre for Effective Dispute Resolution (CEDR), ISCAS is assessing the suitability of mediation as a method of dispute resolution for complaints that may not be appropriate for ISCAS adjudication. In such circumstances mediation may be offered to the patient and the subscriber on a voluntary basis (both parties must consent) but this will not prevent the patient from using the ISCAS service if mediation is not considered suitable or it proves ultimately unsuccessful. Mediation is a flexible process conducted confidentially in which a neutral person actively assists parties in working towards a negotiated agreement of a dispute or difference, with the parties in ultimate control of the decision to settle and the terms of resolution.

Since 2015, the law has required alternative dispute resolution to be made available to consumers who enter into contracts for goods or services with traders. While contracts for health services provided by health professionals to patients are not formally subject to this requirement, as a matter of good practice ISCAS aspires to the same principles of open access, expertise, independence, impartiality, transparency, effectiveness and fairness.

The Standards

The primary standard is that each IHP shall have a complaints procedure that is aligned with the ISCAS Code and relevant regulations. The roles and responsibilities section within the procedure should clearly identify where within the IHP accountability rests for complaints handling (from front line staff, to director and the governing board). The procedure shall be embedded in the organisation and there shall be monitoring that provides assurance as to the effectiveness of the procedure. Where issues are found with compliance, or other opportunities to improve are identified, improvements shall be made in a timely manner and further monitoring undertaken.

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

- **Stage 1**: Complaint raised directly with clinic or hospital where care was received
- **Stage 2**: Internal review of complaint by someone who was not involved at stage 1 (eg. regional/head office)
- **Stage 3**: ISCAS Independent Adjudication

Emphasis should be given to 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.

Complaints should normally be made as soon as possible at stage 1, and within 6 months of the date of the event complained about, or within 6 months of the matter coming to the attention of the complainant. The time limit may be extended by the IHP where the complainant has good reason for not making a complaint in the time limit (for example, where a complainant has been grieving), and there is a realistic opportunity of conducting a fair and effective investigation into the issues raised. Where IHP’s consider permitting complaints to be opened after an extended period has passed, they are advised to discuss with ISCAS any potential issues that may be encountered at stage 3. The independent adjudicators have the right to refuse a complaint at stage 3 where the likelihood of conducting an effective review is unrealistic.

Stage 3 is the final stage in the complaints process, and both IHPs and complainants agree to accept the finality of the decision made as part of their participation in Independent Adjudication. (Scotland is the exception, see ‘regulatory requirements’ on page 4).

Stage 1: Local Resolution

IHPs shall:

1. Have a written procedure for handling complaints made by patients (or by others on their behalf). This should be concise, easy to understand and only contain relevant information about complaints handling. The procedure should be kept up-to-date and as a minimum include information about:
   1.1 The scope of what is covered by the procedure (and any exclusions), and a definition of a complaint; namely a communication that requires an investigation and a formal response.
   1.2 The process for handling complaints, including clinical governance arrangements within the hospital or clinic for investigating complaints.
   1.3 The steps the IHP will take effectively to investigate the complaint.
   1.4 The timeframes the IHP will work to in trying to resolve the complaint (which should comply with the timeframes set in this Code)
   1.5 How complaints can be made, and how complaints submitted by email or text or using other media will be handled (including the timeframes that apply to any communications by email or text etc.).

2. Ensure that the procedure for handling complaints is well-publicised and readily available. For example, IHP websites should include information on ‘how to complain’ and confirm their commitment to the ISCAS Code. Complainants should be provided with a copy of the complaints procedure (or relevant Patient Guide), when they first raise concerns about any aspect of the service they have received.

3. Ensure that the ways in which complaints are accepted does not deter or disadvantage patients or their relatives from making complaints. Reasonable assistance should be available to anyone needing help to make a complaint (for example, whose first language is not English or who may have a disability).

4. Offer complainants a face-to-face meeting to talk through their concerns, agree the heads of complaint and what the complaint process can deliver, and demonstrate steps taken to resolve the complaint early on.
5. Demonstrate openness and transparency in all communications in accordance with the professional duty of candour and comply with the requirements of any statutory duty of candour as relevant and in line with the regulatory requirements.

6. Remind complainants of their right to seek independent or legal advice where any aspect of their complaint might give rise to a clinical negligence claim. Even if independent advice is being sought about possible clinical negligence the ISCAS Code requires that the complaints procedure is continued.

7. Remind all staff that the professional regulators (e.g. the General Medical Council and the Nursing and Midwifery Council) require regulated healthcare professionals to assist with reviews and investigations when requested, and the system regulators (see page 4) require compliance with the IHP’s complaints procedure. This includes clinicians who are not directly employed, for example those who have been granted practising privileges or who work as a locum or on a similar basis.

8. In serious complaints, such as those where there has been a lapse in patient safety and where harm may have been caused, or where there has been a serious breakdown in trust, the IHP should consider, in discussion with the complainant, whether there is a need for an independent investigation or independent clinical opinion as part of the investigation. The costs of this should be paid for by the IHP.

9. Keep confidential all details relating to the complaint and its investigation.

10. Seek consent from the patient where a) a complaint about the care they received is made by someone acting on their behalf; and/or b) where the handling of the complaint requires disclosure of confidential medical information to other relevant parties. Where consent cannot be provided, the IHP shall use risk-based decision-making on a case-by-case basis, and document the outcome on how to proceed.

11. Investigate the complaint and document the findings, including, where appropriate, reviewing clinical records and seeking statements from relevant staff, including those with practising privileges.

12. Respond in writing to complaints, whether made by letter, email or text. A written record should be made of any face to face or telephone discussions regarding an expression of dissatisfaction with the service by a complainant.

13. Provide a written acknowledgement to complainants within 3 working days of receipt of their complaint (unless a full reply can be sent within 5 days).

14. Provide a full response to the complaint within 20 working days or, where the investigation is still in progress, send a letter explaining the reason for the delay to the complainant, at a minimum, every 20 working days. The aim should be to complete stage 1 in most cases within three months.

15. The response to the complaint should also include an open and honest explanation of how the organisation has investigated the matters that gave rise to the complaint and the findings of the investigation.

16. Where the investigation finds that there is a concern about a departure from professional standards that may impact on patient safety, the IHP must refer the matter to the relevant professional regulator and take steps to protect patients without delay.

17. Consider a wide range of appropriate and proportionate responses, including:
   17.1 Offering the complainant a sincere apology
   17.2 Taking action to put things right
   17.3 Sharing details of how the organisation has learnt from the complaint, including any changes that have been made as a result
   17.4 Making a gesture of goodwill offer, where appropriate (the IHP may wish to refer to the ISCAS Goodwill Payments Guide)

18. Signpost complainants to the next stage of the procedure for handling complaints, in the event that they are dissatisfied with the response to their complaint. This means an explanation to the complainant of the option to proceed to a review of their complaint at stage 2. Complainants should be informed that, should they wish to escalate their complaint to stage 2, they should do so in writing, within 6 months of the final response to their complaint at stage 1. The time limit can sometimes be extended, but only where there is a realistic opportunity of conducting a reasonable investigation at stage 2.
Timeframes for stage 1

Complaint should be acknowledged within 3 working days of receipt

Full response to complaint within 20 working days, or an update on progress every 20 working days

Complaint should be concluded within 3 months (unless good reason to explain longer timeframe)

Stage 2: Complaint Review

IHPs shall:

19. Clearly identify to the complainant (and other parties) that the complaint is at stage 2 and identify the individual responsible for handling the complaint at this stage.

20. Have arrangements in place by which to conduct an objective review of the complaint. The aim is to form an independent view on the handling of the complaint. Normally this will involve a senior member of staff within the IHP, who has not been involved in handling the complaint at stage 1 and is removed from the hospital or clinic that the complaint is about. Smaller IHPs should demonstrate processes that allow for an objective assessment of the complaint at stage 2.

21. Provide a written acknowledgement to complainants within 3 working days of receipt of their complaint at stage 2 (unless a full reply can be sent within 5 working days).

22. Stage 2 shall involve a review of all the documentation and may include interviews with relevant staff. The records made as part of the stage 2 review should be complete and retained since these may be required for a stage 3 process.

23. Provide a review of the investigation and the response made at stage 1.

24. Invite the hospital or clinic that responded at stage 1 to make a further response, where there is an opportunity to resolve the complaint by taking a further look at a specific matter. The complainant should be kept informed where this happens.

25. Consider whether the review at stage 2 would be supported by facilitating a face-to-face meeting (or teleconference, where acceptable) between the complainant and those who responded to the complaint at stage 1.

26. Provide a full response on the outcome of the review within 20 working days or, where the investigation is still in progress, send a letter explaining the reason for the delay to the complainant, at a minimum, every 20 working days. The aim should be to complete the review at stage 2 in most cases within three months.

27. Signpost complainants to the next stage of the complaints procedure, which means explaining their right to an independent external adjudication of their complaint, and the timescales for doing this. Requests for independent external adjudication should be made to ISCAS, in writing, within 6 months of receipt of the stage 2 decision letter. Requests for independent external adjudication will be allowed outside this timeframe only in exceptional circumstances.

Timeframes for stage 2

Complaint should be acknowledged within 3 working days of receipt

Full response to complaint within 20 working days, or an update on progress every 20 working days

Complaint should be concluded within 3 months (unless good reason to explain longer timeframe)
Stage 3: Independent External Adjudication

Overview of stage 3 adjudication process

ISCAS shall:

28. Have a Patient Guide that explains the Independent Adjudication Service for the public. This should be concise, easy to understand, and kept up-to-date. This document should be available on the ISCAS website and a hard copy sent to complainants on request.

29. Provide a written acknowledgement to complainants of their request for independent external adjudication within 3 working days of receipt of the request.

30. Inform the IHP that the complaint has progressed to stage 3 and advise that the IHP has 10 working days to object, where relevant, because the processes for local resolution and stage 2 review have not yet been exhausted or because one of the grounds at standard 32 apply.

31. Refer complainants back to the IHP where the complaint has not completed stages 1 and 2. Where appropriate, refer the complainant to other sources of assistance (such as bereavement services1, 2, 3).

32. Accept complaints for adjudication, unless:
   32.1 It is reasonable to consider that the complaint has been resolved, or
   32.2 The IHP has genuine and reasonable grounds for considering that the complaint can be resolved locally and takes active steps to achieve this, or
   32.3 The complaint brought to ISCAS has a different focus to the matter that was originally brought to the IHP, or
   32.4 The complaint is outside the remit of the Code for complaints handling, or
   32.5 The complainant is demonstrating unacceptable behaviour (see page 14), or
   32.6 The complaint relates to events that happened at a time that make it impossible to conduct a reasonable review of the complaint (because the parties do not have a good recollection of events, for example), or
   32.7 In exceptional circumstances a reasonable and acceptable request has been made by the IHP that the case should be deemed closed at stage 2 and not proceed to stage 3.

33. Seek written confirmation from complainants that they wish to participate in the Independent Adjudication process and gain their consent for the IHP to provide their case records and clinical records to ISCAS, the Independent Adjudicator and to any clinical experts who may be appointed to provide advice.

34. Ensure that complainants understand the binding nature of the independent external adjudication. For a complaint to proceed to Independent External Adjudication, the complainant shall accept:
   34.1 The adjudication process is intended to bring about a final resolution of the complaint for both parties;
   34.2 That any decision and/or goodwill payment awarded by the Independent Adjudicator at stage 3 brings the ISCAS three-stage complaint process to a close;
   34.3 That the Independent Adjudicator’s decision is binding on the IHP. However, the decision does not preclude a complainant from seeking any additional legal remedy; monetary or otherwise.

1. https://www.gov.uk/find-bereavement-services-from-council
2. https://www.cruse.org.uk
3. https://www.thedoveservice.org.uk
35. Ask complainants to clarify in writing those aspects of their original complaint that remain unresolved and those which they wish to refer for adjudication. The stage 3 adjudication will not consider ‘new’ issues that have not previously been raised with the IHP (thereby giving the organisation an opportunity to respond). The only exception is concern raised about the way the IHP handled the complaint, which may not surface until after a response is made at stage 2.

36. Ask complainants whether they have any health conditions or disabilities that may require reasonable adjustments to be made to assist them at this stage of the complaints process.

37. Assign an Independent Adjudicator to the complaint within 5 working days of receiving the complaint file. The Adjudicator will be independent of the IHP, and will have the necessary skills and experience to perform this role.

38. Remind complainants of their right to seek independent legal advice where any aspects of their complaint might give rise to a clinical negligence claim. Even if independent legal advice is being sought or might be sought in the future pending the outcome of the adjudication process, the ISCAS Code requires that the complaint can be considered under the complaints procedure, including stage 3 independent adjudication.

**IHPs shall:**

39. Respond to requests from ISCAS for confirmation that the processes for local resolution and stage 2 review have been exhausted, as set out in standard 30.

40. Provide the complainant’s case file and relevant medical records (including scans, where relevant) within 15 working days of the request being made by ISCAS, or inform ISCAS if a longer timeframe is required.

41. Respond to requests for additional information relating to the complaint within 10 working days of the request being made by ISCAS.

**Timeframes for ISCAS**

ISCAS sends letter acknowledging escalation of complaint within 3 working days of request

ISCAS checks with IHP that stages 1 and 2 have been exhausted within 10 working days

IHP provides complaint documentation within 15 working days of request by ISCAS

ISCAS appoints Adjudicator within 5 working days of receipt of complaint file

ISCAS aims to complete most of its adjudications within 3-6 months, and to complete 98% within a year.

**The Independent Adjudicator (IA) shall:**

42. Accept complaints for adjudication, unless:

42.1 The Adjudicator has a conflict of interest that precludes them from adjudicating on the complaint (in which case the complaint would be passed to another adjudicator), or

42.2 The Adjudicator identifies that the conditions under clause 32 apply.

43. Write to complainants within 5 working days of receiving from ISCAS documentation relating to the complaint, using the relevant ISCAS template.

44. Compile a chronology of events and identify the key heads of complaint. Send a letter to the complainant outlining their understanding of the key heads of the complaint and whether expert opinion will be required, within 20 working days, using the relevant ISCAS template. Alternatively, send a letter explaining the reason for the delay and indicating when they will be able to share their understanding of the complaint.
45. Inform complainants that they have 10 working days from the date of the letter setting out the key heads of complaint to draw attention to anything that the Adjudicator has misinterpreted or overlooked, or any aspects of the complaint that have since been resolved. The complainant can also submit any further documentation within this timeframe, after which the Adjudicator will begin the adjudication based on the key heads of complaint set out. The Adjudicator may extend this timeframe where the complainant makes a reasonable request to do so or where there is a requirement for reasonable adjustments to be made.

46. Request additional documentation from the IHP or the complainant, via ISCAS.

47. Request that ISCAS identifies a suitable clinical expert, where the Adjudicator decides that expert opinion is required to inform their adjudication decisions. The IA will provide ISCAS with brief information on the type of expert that is needed and the questions the IA wishes the expert to answer, in accordance with the relevant ISCAS template. The IA will share with the complainant and the IHP the questions they intend to ask the expert. The IA will inform the complainant and the IHP that they have 10 working days from the date of that letter to raise any concerns regarding the questions, after which time the Adjudicator will send the questions to the expert.

48. Send a letter to the complainant, at a minimum, every 20 working days, to inform them of progress with the adjudication and explain any delays.

49. Provide a full adjudication decision within 20 working days of being in a position to do so (e.g. having received expert opinion, where relevant), or send a letter to explain any delays and indicate when the decision will be issued.

50. Set out the adjudication decision using the relevant ISCAS template and provide well-reasoned decisions.

51. Make observations regarding the IHP’s compliance with the Code and highlight 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 result, and give other advice, as necessary to support the resolution of the complaint.

52. Exercise their discretion to award a goodwill payment in recognition of shortfalls in the complaint handling, inconvenience, distress, or any combination of these, up to a limit of £5,000, in accordance with the ISCAS Goodwill Payments Guide. A goodwill payment is not designed to be compensation or a refund. Any decision regarding goodwill awards should be made with reference to the tiers set out in the ISCAS Goodwill Payments Guide, and the guidance on deciding which tier is engaged.

53. Issue a covering letter to the Chief Executive of the IHP to accompany the adjudication decision. This letter should draw attention to the outcome of the adjudication (i.e. the number and nature of any heads of complaint that were upheld) and any actions (including any goodwill payment award). It should also highlight points of learning for the IHP and any advice given as per standard 51.

54. At any point during the adjudication the IA can decide to end the adjudication if he or she considers the case to be incapable of resolution under the Independent Adjudication process.

Timeframes for the Adjudicator

- Adjudicator sends letter confirming receipt of complaint documentation within 5 working days of receipt.
- Adjudicator sends letter identifying key heads of complaint within 20 working days, or an update on progress every 20 working days.
- Complainant expected to confirm key heads of complaint (or suggest amendments) within 10 working days.
- Adjudicator issues decision within 20 working days, or provides an update on progress every 20 working days.

IHPs shall:

55. Pay any goodwill award to the complainant within 20 working days of the date of the adjudication decision letter.

56. Ensure any points for learning are implemented and, where requested to so in the adjudication letter, confirm implementation in writing.
Monitoring and improvement

IHPs shall:

57. Undertake an annual self-assessment of compliance against the standards in the ISCAS Code, using a template provided by ISCAS, and share this with ISCAS at the time of annual renewal of its subscription. Where the IHP finds that it is not meeting the standards in the Code, it should share with ISCAS an action plan that demonstrates how compliance will be achieved. The submission of this self-assessment (and, where appropriate, action plan) will be a condition of successful renewal of its subscription with ISCAS.

58. Respond to requests from ISCAS to address areas of non-compliance with the Code raised through the adjudication process, annual self-assessment or performance review meetings.

ISCAS shall:

59. Include in its annual report an overview of how IHPs are performing against the ISCAS Code, based upon the self-assessments conducted by IHPs, themes arising from Independent Adjudication and other ISCAS activity in the reporting year.

60. Undertake performance review meetings with IHPs that repeatedly fail to meet the Code’s standards, and set clear objectives, with timelines, for IHPs to demonstrate improvement.

61. Take steps to remove the subscription of any IHP that persistently fails to meet the ISCAS Code and does not engage with ISCAS to improve its complaints handling.

Dealing with unacceptable behaviour by complainants

IHPs shall:

62. Have a policy in place to handle situations where people pursue their complaint in an unacceptable way. Such behaviour can impede the investigation of the complaint and cause significant resource issues for the organisation. Examples of unacceptable behaviour include: leaving an excessive number of voicemails or emails; persistent refusal to accept a decision made in relation to a complaint; subjecting staff to behaviour that is offensive or unreasonably demanding, such as verbal abuse or harassment towards staff.

63. The policy should set out how the organisation will decide whether a complainant is behaving in a way that is unacceptable, and how the organisation will respond in those circumstances.

ISCAS shall:

64. Have its own policy for handling unacceptable behaviour by complainants, which is available on the ISCAS website, and provide guidance to IHPs on its application.
Complaints about ISCAS or the Independent Adjudicator

Complaints about the way ISCAS has handled an adjudication at stage 3, or about the Independent Adjudicator, should be made in writing to the ISCAS Management Team, within 28 days of the date of the adjudication decision letter. A complaint can only be made if the person or organisation complaining (i.e. the complainant or the IHP) believes that ISCAS and or the Adjudicator have failed to carry out the process of adjudication properly (i.e. according to the Code).

The ISCAS Management Team shall:

I. Acknowledge receipt of the complaint within 3 working days.

II. Investigate and respond to the complaint in full within 20 working days.

III. Report all complaints about ISCAS or the adjudicators to the ISCAS Governance Advisory Board.

IV. Publish information about feedback from those who use the service.