How we deal with complaints about independent healthcare (IHC) services

Independent healthcare (IHC) complaints procedure (for Providers and Complainants)
# Contents

## Foreword

## Key principles
- The Procedure - A Quick Guide
- What is a complaint?
- What is an independent healthcare service
- Who can make a complaint
- How a complaint can be made
- Independent Sector Complaints Adjudication Service (ISCAS)
- Consumer Redress Schemes (CRSs)
- Anonymous and confidential complaints
- Time limits and timescales
- How we assess a complaint
- How we investigate a complaint
- The complaint investigation visit
- Photographs
- Interviews
- Other concerns identified during an investigation
- Unacceptable behaviour
- Protecting vulnerable adults and children

## What happens at the end of an investigation
- Feedback
- Complaint investigation outcome report
- Requirements, recommendations and action plans
- Quality assurance

## Appeals, reviews and grievances
- General comments and feedback
- Appeals
- The post-investigation review
- Timescales and time limits for post-investigation reviews
- How we carry out a post-investigation review
- Final decision

## Appendices
- Appendix 1: Responsibilities

---

**FINAL IHC Complaints Procedure FOR PROVIDERS AND COMPLAINANTS**

Version: 1.2  
Date: 24 July 2020  
Produced by: IHC team  
Page 3 of 20  
Review Date: Ongoing

Circulation type (internal/external): Both
Foreword

Our independent healthcare services complaints handling procedure reflects Healthcare Improvement Scotland’s commitment to addressing complaints made about a registered independent healthcare service in a person-centred way and to respect the rights of everyone involved. It will support our staff to respond thoroughly, impartially and fairly by providing evidence-based decisions based on the facts of the case.

The procedure has been developed using the model complaints handling procedure developed by the Scottish Public Services Ombudsman (SPSO). We have a standard approach to handling complaints across independent healthcare services in Scotland, which follows the principles of the SPSO’s model complaints handling procedure. This procedure aims to help us ‘get it right first time’. We want quicker, simpler and more streamlined complaints handling with early resolution by capable, well-trained staff.

By implementing this procedure, we are providing clarity and ensuring consistency in the way we handle complaints about the services we regulate. We will address complaints effectively, resolve them as early as we can, and ensure that our investigations lead to improvement where needed.

Alastair Delaney, Director of Quality Assurance (Chief Inspector of Healthcare)
Key Principles

The Procedure - A Quick Guide

**STEP 1: Receiving and assessing the complaint**
Complaints can be made by phone, in person or in writing. An assessment of eligibility will be carried out within 1 working day. An acknowledgement will be sent within 5 working days.

**STEP 2: Planning for the investigation**
Inspectors will plan how the investigation will be carried out and contact the complainant to agree the complaint areas to be investigated.

**STEP 3: The investigation**
Eligible complaints will be investigated and a written response provided within 20 working days of the complainant’s agreement to the areas to be investigated, unless there is clearly a good reason for needing more time.

**STEP 4: Decision making and reporting**
We will send a complaint investigation outcome report to the complainant and the provider. We will publish all complaint investigation outcome reports on our website.

**STEP 5: Follow-up (if upheld)**
Provider’s action plans will be followed up 16 weeks after the date of the complaint investigation outcome report. Unless action is required immediately.

**STEP 6: Appeals and grievances**
If a complainant or provider believes we have made a mistake in our investigation findings, they can ask us to carry out a post-investigation review within 10 working days of the complaint investigation outcome report.
Key Principles

What is a complaint?
A complaint may relate to the quality of care and treatment experienced by a service user, actions a service/provider took that the service user deemed inadequate, or a service/provider’s failure to take action when necessary.

We can investigate complaints that relate to:

✓ the quality of care and/or treatment experienced
✓ care environment or equipment issues
✓ poor treatment by a member of staff
✓ operational and procedural issues
✓ the service/provider’s failure to follow the appropriate process, and
✓ lack of information provision by the service/provider.

We cannot investigate complaints that relate to:

× services that are not registered with us (that we do not regulate)
× events that occurred more than 6 months prior to the complaint being made
× refunds for treatment/care received
× fees charged for treatment/care
× clinical decisions about treatment/care received
× a request for a second opinion relating to treatment/care
× ethical standards of an individual registered healthcare professional
× issues about the functions of one service/provider, raised by another
× matters relating to contracts of employment
× issues that are currently/have already been investigated and responded to by Healthcare Improvement Scotland
× issues that are currently being investigated by a third party adjudication service (such as the Independent Sector Complaints Adjudication Service (ISCAS))
× issues that are currently subject to legal proceedings, and
× issues that have already been investigated and upheld by the service/provider.
What is an independent healthcare service
Healthcare Improvement Scotland regulates registered independent healthcare services in Scotland to ensure they comply with standards and regulations. Services include:

- independent hospitals
- private psychiatric hospitals
- independent hospices, and
- independent clinics.

Independent clinics are defined in the National Health Service (Scotland) Act 1978 as clinics that are not part of a hospital and from which a medical practitioner, dental practitioner, registered nurse, registered midwife or dental care professional (clinical dental technician, dental hygienist, dental nurse, dental technician, dental therapist, orthodontic therapist) provides a service, which is not part of the National Health Service. The term ‘service’ includes consultations, investigations and treatments.

Who can make a complaint
Anyone who is affected by an act or omission of a service/provider can make a complaint. Sometimes a complainant may be unable or reluctant to do so on their own. In these circumstances, we will accept complaints brought by third parties as long as the complainant has authorised the person to act on their behalf.

Where a complaint is brought by a third party, we will ensure that the complainant has also consented to their personal information being shared as part of the complaints handling process, in line with current legal requirements.

In circumstances where no such consent has been given, we will take this into account when handling and responding to the complaint, but are likely to be constrained in terms of any investigation.

How a complaint can be made
Complaints can be made to:

Programme Manager
Independent Healthcare Services Team
Healthcare Improvement Scotland
Gyle Square
1 South Gyle Crescent
Edinburgh
EH12 9EB

Tel: 0131 623 4342
Email: hcis.ihcregulation@nhs.net
Complaints can be made **up to 6 months*** after the event which is the cause for the complaint. We will not investigate complaints about events that occurred more than 6 months before the complaint is received, *unless the person making the complaint could not reasonably have known of the basis for the complaint beforehand.*

Complaints can be received in any format, through any of the following methods:

- in writing (email or letter)
- by telephone, or
- in person (either in the office or during an inspection).

Complainants should ensure that all contact details including their telephone number and/or email address are included to allow us to easily contact them.

Complaints can also be received anonymously or in confidence.

Complainants will be encouraged in the first instance to try and resolve the relevant issue(s) through the service/provider’s own complaints procedure. We will also encourage complainants to use the Independent Sector Complaints Adjudication Service (ISCAS) complaints processes or the Consumer Redress Scheme, where the service/provider is a member of such a scheme(s).

If the complainant does not wish to do this, or has already done this and was not satisfied with the outcome, then we will assess the complaint for investigation.

**Independent Sector Complaints Adjudication Service (ISCAS)**

This is the recognised complaints management framework in the independent healthcare sector. It is a voluntary subscription scheme for independent healthcare providers across the UK. It operates a Complaints Code of Practice that sets out the standards which subscribers agree to meet when handling complaints about their services.

ISCAS can only deal with complaints about ISCAS subscribers, as they are not a regulatory body. Providers who are subscribers of ISCAS can signpost their service users to this independent facility. Further information can be found on the ISCAS website at [http://www.iscas.org.uk/](http://www.iscas.org.uk/) or at the postal address below:

**Independent Sector Complaints Adjudication Service**
70 Fleet Street
London
EC4Y 1EU
Consumer Redress Schemes
Consumer Redress Schemes (CRSs) are government authorised ombudsman schemes that offer an escalated complaints process to the consumers of their subscribing members. All types of industries will have an appropriate CRS. For example, the Cosmetic Redress Scheme is the most appropriate CRS for independent clinics that provide cosmetic treatments.

If a service/provider subscribes to the Cosmetic Redress Scheme (or equivalent CRS), the service users of that service can ask the scheme for help to resolve their complaint, including financial reimbursement should that be the desired outcome. This is worth noting as Healthcare Improvement Scotland cannot provide assistance with financial reimbursement.

Membership of the Cosmetic Redress Scheme directory can be checked online here.

Anonymous and confidential complaints
We will treat all complaints seriously, however they are received, and will take action to consider them further wherever this is appropriate. Complaints can be made anonymously or in confidence. An anonymous complaint is where we receive a complaint but no contact details for the complainant. A confidential complaint is where we have the complainant’s name and contact details but they request their name not be used or divulged to the service/provider.

Where confidentiality is requested, we will still request contact information from the complainant. This will only be for communication purposes and to provide a complaint investigation outcome report. We will not inform the provider of the complainant’s identity. However, we will advise complainants that it is possible the service/provider may guess a complainant’s identity from the allegations being investigated. Nonetheless, we will not confirm or deny if this circumstance arises.

There will also be some circumstances where confidentiality will not be possible, such as Police investigations. We will notify the complainant if we feel it necessary to refer a complaint to the Police.

When receiving an anonymous complaint, if there is not enough information to enable us to take further action or to obtain further information, we may decide that we are unable to undertake an investigation. Any decision not to investigate an anonymous complaint will be authorised by a Senior Inspector/Reviewer.

We will record all information about anonymous complaints, to the extent that it is available, to allow consideration of any action deemed necessary. If we pursue an anonymous complaint further, we will record the investigation and outcome in line with our normal complaint investigation process. However, we are unable to provide anonymous complainants with an investigation outcome report as we will not have any contact information.
Time limits and timescales

Eligibility time limit
The time limit for making complaints about independent healthcare services is 6 months*. Any complaint about issues that occurred within 6 months or less will be eligible for assessment. Issues that occurred more than 6 months ago will not be investigated. *unless the person making the complaint could not reasonably have known of the basis for the complaint beforehand.

Assessment timescale
We will assess the eligibility of complaints within 1 working day of receipt.

Acknowledgement timescale
Eligible complaints will be acknowledged (in writing) within 5 working days of assessment.

Investigation timescale
Complaints will be investigated and a written response provided within 20 working days of the complainant’s agreement to the areas to be investigated, unless there is clearly a good reason for needing more time. If further time is needed, we will write to the complainant and service/provider as appropriate.

Investigation visit timescale
Services/Providers will normally be given no more than 3 working days’ notice of an announced complaint investigation visit. No notice will be given for unannounced investigation visits.

Post-investigation review - request timescale
If a complainant or service/provider disagrees with an outcome decision in a complaint investigation outcome report, they have 10 working days following receipt of the investigation outcome report to request a post-investigation review.

Post-investigation review - acknowledgement of request timescale
When we receive a request for a post-investigation review, we will write to the requestor within 5 working days to confirm receipt of the request.

Post-investigation review - decision to carry out review timescale
We will decide whether to carry out a post-investigation review within 10 working days of receiving the request.

Post-investigation review – final outcome decision timescale
We will write to the requestor within 20 working days explaining the outcome of the post-investigation review and the final decision we have reached.
How we assess a complaint
Once we have received a complaint, it will be passed to an inspector to assess. The aim of the assessment is to establish whether the issues being raised can/should be investigated and to narrow the focus of the specific issues that will be investigated. Following assessment, we will choose one of the following four options:

1. **Use the information as intelligence**
   Where we pass the information the complainant gives us to the inspector/s responsible for regulating the service. They will use the information to help inform future inspections.

2. **Arrange frontline resolution**
   Where we ask the service/provider to engage in frontline resolution directly with the complainant to resolve the complaint. We will always agree this course of action with the complainant before making any contact with the service/provider.

3. **Investigation by the provider**
   We will instruct the service/provider to carry out its own investigation of the complainant’s allegations and send us written confirmation of the action taken and resolution.

   We will assess the service/s/provider’s written response to establish if the complaint has been dealt with appropriately, then close the case and note the outcome. However, if we do not think the complaint has been dealt with appropriately, we will investigate it ourselves.

4. **Investigation by Healthcare Improvement Scotland**
   Not all complaints are suitable for frontline resolution or investigation by the service/provider and we may decide we need to carry out an investigation.

Depending on the nature of the complaint, Healthcare Improvement Scotland will ensure appropriate expertise is included in the members of the investigation team, for example doctor, pharmacist or other relevant healthcare professional as required. Our investigations will aim to establish all the relevant facts and give the complainant and service/provider a full, objective and proportionate response. This will include whether we uphold their complaint. Our complaint investigations will always include the following four elements:

- writing to the complainant, and where appropriate the service/provider, to confirm the areas we will be investigating
- visiting the service to investigate the complaint, where appropriate
- examining and assessing evidence and speaking to relevant people, and
- writing to the complainant and service/provider with the outcome of investigation.
Complaints will be distinguished from feedback, comments and concerns to ensure that issues raised are handled through the appropriate procedures. Where an issue raised is clearly not a complaint, advice will be given on the appropriate body to raise the matter with.

If the service/provider is not registered with Healthcare Improvement Scotland, we have no regulatory powers to investigate. In these circumstances, we will advise the complainant of the most appropriate body to direct their concerns to.

This may include any of the following organisations:

- General Medical Council
- General Pharmaceutical Council
- Nursing and Midwifery Council
- Care Inspectorate
- General Dental Council
- Mental Welfare Commission
- Police Scotland
- Health & Safety Executive
- Care Quality Commission
- National Health Service Scotland
- Local Authority Social Services Department/Environmental Health Department

**How we investigate a complaint**

We will assess the eligibility of complaints *within 1 working day* of receipt. Eligible complaints will be acknowledged (in writing) *within 5 working days* of assessment. We will then write to the complainant requesting their agreement to the proposed complaint areas for investigation.

Once the proposed complaint areas for investigation have been agreed with the complainant, we will plan our investigation. We have *20 working days* from this date to carry out the complaint investigation and provide the complainant and service/provider with a conclusion.

If we need to extend this timescale, we will write to the complainant and service/provider to explain our reasons for this.

Where a service/provider has carried out their own internal investigation, we will request a copy of the findings.
The complaint investigation visit
If an investigation visit is planned, we will decide if this should be announced or unannounced. If announced, we will give the service/provider no more than 3 working days’ notice before the visit taking place. At this time, we will inform the service/provider that the reason for our visit relates to a complaint. However, we may not reveal any further details about the complaint until our arrival, depending on the nature of the complaint. Upon our arrival, we will give the provider a letter outlining the complaint areas to be investigated. We will ask the provider to sign to verify receipt of this letter.

If we decide to carry out an unannounced investigation visit, no notice will be given to the service/provider beforehand. Services/providers are duty bound to cooperate fully with us in terms of entry and assisting with our investigation enquiries. If we think a service or provider is being deliberately obstructive, we may seek Police assistance to enable us to continue the investigation without obstruction. However, this will depend on the nature and seriousness of the complaint circumstances.

Photographs
We may take photographs during complaint investigations. We will follow our internal procedures when taking photographs and will never take photographs of staff or service users.

Interviews
As part of the investigation process, we may decide to interview staff and service users. Interviews can help provide context to an event, corroborate what someone else has said or provide valuable focused detail, in a structured and fair way.

Other concerns identified during an investigation
A complaint investigation may highlight other concerns about a service, which do not directly relate to the complaint areas being investigated. Such concerns must be raised separately with the service/provider, through one of the following methods:

- sending a letter to the provider outlining the concerns identified
- following up the concerns at the next programmed inspection of the service, or
- carrying out a separate inspection of the service, relating to the specific concerns identified.

Unacceptable behaviour
Both complainants and providers may be angry, upset or frustrated when making or receiving a complaint. However, if this behaviour becomes unacceptable and is affecting our ability to do our work, we will inform the complainant or service/provider that contact with them will be restricted to written or third party correspondence.
Complainants or service/providers who use verbal abuse, harassment or threaten physical violence towards staff will be informed that this may result in their behaviour being reported to the Police.

**Protecting vulnerable adults and children**
If a complaint involves allegations or suspicions about a child or vulnerable adult’s safety or protection, we will follow our internal procedures in respect of reporting the issues to the relevant body. Even if a complainant withdraws safeguarding allegations, we may still follow these up, as a separate intervention, if we deem there to be a significant risk to the health and welfare of service users.
What happens at the end of an investigation

Feedback
At the end of a complaint investigation visit, we will discuss our findings with the service/provider. We may give the service/provider an opportunity to provide us with additional supporting evidence, if we deem appropriate. However, we will only allow a maximum of 5 working days following conclusion of the investigation visit for this information to be provided.

Complaint investigation outcome report
When we have concluded our investigation, we will send an investigation outcome report to both the complainant and the service/provider at the same time. These reports will detail the following:

- a list of the complaint areas that we investigated
- the action we took to investigate
- the evidence we have considered
- our outcome decisions
- areas for improvement that we have identified, and
- action the service/provider must take.

We will make our decisions taking into account all the evidence we find during our investigation.

The complaint investigation outcome report will state whether or not a complaint has been:

- upheld, or
- not upheld.

Where requirements or recommendations have been made, we will expect the service/provider to return a complaint investigation action plan.

We will allow the complainant and service/provider to raise any factual errors in our complaint investigation outcome reports within 5 working days of receipt. Any changes will be discussed and agreed with a Senior Inspector/Reviewer and an amended complaint investigation outcome report issued if necessary.

We will publish all upheld complaint investigation outcome reports on our website, along with service/providers’ complaint investigation action plans. All upheld complaint investigation outcome reports will be placed on the relevant service’s page on our website and will include a summary of the complaint. No individuals will be able to be identified in the report.
Requirements, recommendations and action plans
Complaint investigation action plans will be followed up 16 weeks after the date of the complaint investigation outcome report. If we have made any requirements or recommendations as a result of a complaint investigation, these will be followed up and reported on as part of the service’s next programmed inspection. However, if any urgent requirements were made, these may be followed up separately, before the next inspection.

Quality assurance
Senior Inspectors/Reviewers will analyse the information gathered from complaints regularly and consider how our performance or processes could be improved.

An increase in the number of complaints about a service/provider will not, in itself, be a reason for assuming a service is deteriorating. It could mean that arrangements for handling complaints have become more responsive. However, it is important we understand the reason for such an increase and ensure that, where appropriate, lessons are learned that result in service improvement.
Appeals, reviews and grievances

General comments and feedback
We welcome any feedback or comments about our work, as they are an important way of identifying the perspective of those we serve and improving satisfaction with the services we provide. Please send any general feedback on your experience with Healthcare Improvement Scotland to hcis.ihcregulation@nhs.net or comments.his@nhs.net.

Appeals
As Healthcare Improvement Scotland is the regulator for independent healthcare services in Scotland, complainants do not have a pathway to the Scottish Public Services Ombudsman (SPSO) if unsatisfied with a complaint investigation outcome decision we make about an independent healthcare service. The SPSO is the final stage for complaints about public bodies only, such as the National Health Service. However, we do have a final stage in our procedure for complainants or providers who disagree with a complaint investigation outcome decision we make. This is called a post-investigation review.

The post-investigation review
If a complainant or service/provider believes we have made a mistake in our investigation findings and have come to the wrong outcome decision, they can ask us to carry out a post-investigation review.

A post-investigation review can only be requested if the complainant or service/provider considers that:

a) new evidence is available that was not or could not reasonably have been available to the complainant or service/provider during the course of the investigation
b) we made our outcome decision based on important evidence that was inaccurate and the complainant or service/provider can demonstrate this, using readily available information, or
c) we have incorrectly interpreted the evidence before us.

If a complainant or service/provider has new information that changes the focus of the complaint we investigated or introduces a new part to the complaint, we may need to start a new investigation.

Timescales and time limits for post-investigation reviews
If a complainant or service/provider disagrees with a complaint outcome decision, they have 10 working days from receiving the complaint investigation outcome report to ask us to carry out a post-investigation review. They must make the request in writing, providing clear reasons as to why they wish the review to be carried out.
When we receive such a request, we will write to the requestor within 5 working days to acknowledge receipt.

**How we carry out a post-investigation review**

Our panel of advisors, who are not members of the independent healthcare team, will look at the post-investigation review request and review it along with the evidence we have gathered and decide whether to:

- investigate further
- update the complaint investigation outcome report to reflect the comments received, or
- update the complaint investigation outcome decision.

We will write to the complainant and/or service/provider within 20 working days explaining the outcome of the post-investigation review and the final decision we have reached. If the investigation outcome decision has changed, we will issue an amended complaint investigation outcome report to both complainant and service/provider. If there is no change to the investigation outcome decision, we will confirm that the original report is final.

**Final decision**

Once we have concluded a post-investigation review and informed the complainant and/or service/provider of our final investigation outcome decision, there is no appeal or review of that decision.

If a complainant or service/provider wishes to raise an issue about the way we carried out the complaint investigation, they are entitled to raise a separate complaint about Healthcare Improvement Scotland, under the Healthcare Improvement Scotland Complaints Handling Procedure.

However, please note that only issues related to the following circumstances can be investigated:

- an inadequate standard of service provided by Healthcare Improvement Scotland
- poor treatment by, or attitude of, a member of Healthcare Improvement Scotland staff, or
- Healthcare Improvement Scotland’s failure to follow the appropriate process.

Please note that Healthcare Improvement Scotland cannot reinvestigate a previously concluded complaint or reconsider a complaint investigation outcome where a final decision has already been issued. It also cannot investigate allegations that have been referred to another statutory agency, such as the Police or a complaint about which the complainant has commenced legal proceedings, or has clearly stated they intend to do so.
Appendix 1: Responsibilities

Chief Executive
Has overall responsibility for the way Healthcare Improvement Scotland carries out its duties.

Director of Quality Assurance (Chief Inspector of Healthcare)
Has high-level oversight, on behalf of the Chief Executive, of performance in terms of complaint handling, investigation and reporting. However, the responsibility for the day-to-day operation is delegated to the Head of Service Review.

Head of Service Review
Accountable for the management and reporting of complaints, and providing leadership and direction to guide and enable staff involved in complaint handling, investigation and reporting to perform effectively. This includes ensuring there is an effective complaints handling procedure, with a robust investigation process, that demonstrates how we perform our statutory duties and improve outcomes for service users.

Senior Inspectors/Reviewers
Responsible for ensuring that complaints and investigations are monitored with a view to improving performance. They are also responsible for providing leadership and guidance to Inspectors in day-to-day complaint handling and carrying out investigations, where appropriate. Regular management reports are provided to the Head of Service Review to provide assurance on the quality of performance.

Inspectors
Responsible for day-to-day complaint handling, carrying out investigations, accurately reporting on outcomes and taking enforcement action where necessary. Inspectors are responsible (in liaison with Senior Inspectors/Reviewers where appropriate) for determining whether a complaint should be investigated or not and ensuring that action is taken as necessary following the outcome of investigations. They are also responsible for providing advice and support to complainants, service users, staff and others who may be involved in a complaint investigation.

All staff in the organisation
A complaint may be made to any member of staff in the organisation. Therefore, all staff must be aware of the complaint investigation procedure and who to pass the complaint details to, if they are the first point of contact for the complainant.