

Independent Healthcare Complaints Procedure

Author: Independent Healthcare Team

Executive Lead Officer: Robbie Pearson, Director of Quality Assurance

Last updated: 4 February 2016

Review date: Ongoing

Status: Final

Issue number: 1.2

Printed copies should not be considered the definitive version.

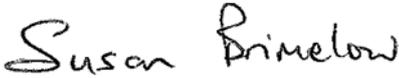
DOCUMENT CONTROL SHEET

<u>Key Information:</u>	
Title:	Healthcare Improvement Scotland Independent Healthcare Complaints Procedure
Date Published/Issued:	4 February 2016
Date Effective From:	4 February 2016
Version/Issue Number:	1.2
Document Type	Procedure
Document status:	Final
Author:	Independent Healthcare Team
Owner:	Kevin Freeman-Ferguson, Senior Inspector
Approver:	Kevin Freeman-Ferguson, Senior Inspector
Approved by and Date:	Kevin Freeman-Ferguson – 4 February 2016
Contact:	Tracy Birch, Programme Manager
File Location:	Here http://crmapp01/sites/Inspections/Internal/Processes/Template letters, Policies and Procedures/20160204 HIS IHC Complaints Procedure v1.2.doc

Revision History

Version	Date	Summary of Changes	Name	Changes Marked
0.4	11 June 2013	Changes highlighted by GM and SB.	Tracy Birch	No
1.1	13 January 2016	Changes to document to include independent clinics and change of process.	Tracy Birch	No
1.2	4 February 2016	Changes from the IHC Programme Board	Tracy Birch	No

Approvals: This document requires the following signed approvals:

Name:	Signature:	Title:	Date:	Version:
Susan Brimelow		Chief Inspector	13 June 2013	1.0
Kevin Freeman-Ferguson		Senior Inspector	4 February 2016	1.2

Distribution: This document has been distributed to:

Name	Title/Division	Date of Issue	Version
Susan Brimelow & Gareth Marr	HEI	11 June 2013	0.4
IHC Sub-Group	HEI	17 June 2013	1.0
Sally Taber	SIHA	17 June 2013	1.0
IHC Programme Board	IHC	13 January 2016	1.1
IHC Programme Board & IHC Team & HIS website	IHC	4 February 2016	1.2

CONTENTS

1	INTRODUCTION.....	5
2	OUR POLICY.....	6
2.1	Statement of intent.....	6
2.2	Principles.....	6
2.3	Defining a complaint.....	7
2.4	Who can make a complaint.....	7
2.5	Consent.....	7
2.6	When a complaint can be made.....	8
2.7	Independent Sector Complaints Adjudication Service.....	8
2.8	Making a complaint to Healthcare Improvement Scotland.....	8
2.9	What you can and can't complain about.....	8
2.10	Anonymous complaints.....	9
2.11	Withdrawing complaints.....	9
2.12	Unacceptable behaviour by complainants.....	10
2.13	Recording complaints.....	10
2.14	Learning from complaints.....	11
2.15	Responsibilities.....	11
2.16	Staff training.....	11
3	OUR PROCEDURES.....	12
3.1	Stages of the complaints procedure.....	12
3.2	Outcomes.....	12
4	FURTHER ASSISTANCE.....	14
4.1	Healthcare Improvement Scotland.....	14
4.2	The Scottish Public Services Ombudsman.....	14

1 INTRODUCTION

Healthcare Improvement Scotland promotes improvements in the quality of healthcare in Scotland. Our remit also includes the regulation of some independent healthcare services. We call these registered independent healthcare services and our website contains a list of the organisations which are registered with us.

We are required by section 10Z8 National Health Service (Scotland) Act 1978 to have a procedure for receiving and investigating complaints from members of the public or their representatives, relating to the services provided by registered independent healthcare providers (this procedure).

This procedure does not refer to receiving and considering complaints relating to:

- the way we undertake our business as an NHS organisation (HIS Complaints Procedure), and
- NHS boards.

This document sets out our policy for the management of complaints which has been developed in conjunction with Social Care and Social Work Improvement Scotland (the Care Inspectorate). It also outlines the procedures that we will follow when we receive a complaint.

2 OUR POLICY

2.1 Statement of intent

We believe that the public and the other organisations that we work with have the right to complain about our performance and about the performance of those who provide the services we regulate. This right applies to people using services, carers and relatives, private and voluntary organisations, statutory agencies, providers, and indeed, the general public.

We welcome complaints, as they are an important way of identifying the perspective of those we serve and improving satisfaction with the services we provide. Complaints can act as an early indicator that a system is not functioning effectively, and analysing trends in the factors that prompt complaints can provide valuable insight into where improvements may be required.

We aim to:

- ensure there are robust procedures for enquiring into and addressing the causes of dissatisfaction expressed by complainants
- facilitate continuous improvement
- ensure that the regulation of independent healthcare services takes account of service issues raised by complainants.

Complaints with regard to how we undertake our business will be dealt with under the Healthcare Improvement Scotland complaints procedure, which can be found at http://www.healthcareimprovementscotland.org/about_us/contact_us/complaints.aspx.

2.2 Principles

We are committed to managing complaints in a professional manner and will observe the following principles when managing complaints.

- **User focused:** we will put people who use services at the heart of the complaints process. We will respect the confidentiality of complainants when this is requested and if this is possible.
- **Accessible:** we will clearly communicate the complaints process making it easily understood and available to all. We will try and provide access to support and advice when required.
- **Seeks early resolution:** when a complaint is received, we will ensure we understand the outcome the complainant is seeking. We will encourage resolution at the earliest opportunity.
- **Thorough and consistent:** we will ensure that a more formal investigation is undertaken when necessary.

- **Objective:** our approach to decision making will be driven by facts, not assumptions as we strive to deliver a complaints process that is impartial, independent and accountable.
- **Fair:** we will strike a balance between the need for consistency and the individual circumstances of each complaint. We will also ensure that we are fair to those complained about.
- **Proportionate and delivers improvement:** we will ensure that complaint investigations are proportionate to the nature of the allegations and the need for improvement. We will learn from complaints received using them to improve how services are delivered.

2.3 Defining a complaint

A complaint is an expression of dissatisfaction. It may relate to the standard of services that have been provided or to actions that have been taken. It may also relate to a failure to take action.

2.4 Who can make a complaint

Complaints may be made by:

- anyone directly affected by the way a registered independent healthcare provider has carried out its functions
- anyone acting directly on such a person's behalf (for example, parent, guardian, carer, advocate, other relative or the executor of an estate)
- anyone having reasonable concern about the way an independent healthcare service is being provided.

Complainants may ask anyone to advise them how to express their complaint and to advocate for them during the investigation.

If a complaint is made by a group or an organisation, we will ask for an individual to be identified as our contact.

2.5 Consent

- If someone other than the person using the service or their authorised representative wishes to make a complaint about an individual's care, they must be able to demonstrate that they have obtained the consent of the person using the service to make a complaint on their behalf. Where the person using the service is unable to give consent we have to establish that the complainant is suitable to act on their behalf.

2.6 When a complaint can be made

Complaints should normally be made whenever an issue or a concern becomes apparent. This helps to achieve early resolution. However, we recognise that the issues leading to a complaint are not always immediately apparent and therefore we will consider complaints up to one year after the events causing the complaint. We may accept a complaint after this time bar in situations where it can be demonstrated that a complaint could not have been made earlier, provided it is still practicable to investigate the facts.

2.7 Independent Sector Complaints Adjudication Service

We encourage complainants to discuss their concerns with the staff most closely involved or with those who they feel may be able to resolve the issues as quickly and informally as possible.

If the service is a member of the Scottish Independent Hospitals Association (SIHA), complainants can also contact the Independent Sector Complaints Adjudication Service (ISCAS) for advice and to access their complaints process.

Independent Sector Complaints Adjudication Service
70 Fleet Street
London
EC4Y 1EU

T: 0207 536 6091

www.iscas.org.uk

iyates@iscas.org.uk

2.8 Making a complaint to Healthcare Improvement Scotland

If complaining to the service or ISCAS is not possible or does not resolve the situation or if the complainant would prefer to talk to someone different, complaints can be made in writing, by phone or in person to our independent healthcare complaints manager. Contact details are provided at the end of this document.

2.9 What you can and can't complain about

The final section of this document sets out our approach to enquiring into, and if necessary, addressing allegations of failure in service by any independent healthcare provider who is registered with us. Complaints can typically include allegations of:

- failure to respond or unreasonable delay
- unprofessional behaviour
- failure to comply with standards

- failure to follow proper procedures, guidelines and professional codes of conduct, and
- failure to take account of all the available evidence.

To ensure that complaints are addressed in the most appropriate way and that we are not duplicating the work of others or addressing issues that are outside our remit, the following types of complaint fall outside the scope of our policy:

- complaints connected with contractual or commercial issues
- contracts
- complaints relating to independent healthcare services which are not regulated by Healthcare Improvement Scotland, and
- allegations that have been referred to another statutory agency, such as the police or social work.

In addition, we will not investigate complaints where other and more appropriate procedures exist. Examples would include:

- complaints about employment matters
- complaints relating to recruitment decisions, and
- complaints relating to the fitness to practise of an individual where we judge that it would be more appropriate for the complaint to be considered by the relevant professional body responsible for the registration of the individual.

2.10 Anonymous complaints

If someone approaches us with a complaint, we will request their name, address, telephone number and email address, if they have one. This will enable us to acknowledge their complaint, confirm the issues causing concern, clarify or seek further information and provide information on the outcome of our investigation.

We do accept anonymous complaints, if you do not wish to give your details. However, it may not be possible to fully investigate a complaint, if we do not have all the required information. For example, when there is a need to access medical records or to obtain statements from the healthcare professionals involved in an individual's care. Under these circumstances we will discuss this with the complainant.

2.11 Withdrawing complaints

It may not always be possible to withdraw a complaint once you have made it. If the complaint is about the health and welfare of people using an independent healthcare service, we may still need to follow up these allegations.

2.12 Unacceptable behaviour by complainants

People may act out of character in times of trouble or distress. If there have been upsetting or distressing circumstances leading up to a complaint, in a small number of cases this can lead to a complainant acting in an unacceptable way. Examples of behaviour that may be considered unacceptable include:

- persistent refusal to accept a decision made in relation to a complaint
- persistent refusal to accept explanations relating to what can or cannot be done about the complaint
- continuing to pursue a complaint without presenting any new information, and
- subjecting staff to behaviour that is offensive or unreasonably demanding.

How unacceptable behaviour is managed will depend on its nature and extent. If a complainant's behaviour adversely affects staff's ability to do their work and provide a service to others, the complainant's contact will be restricted. Wherever possible, this will be done in a way that allows a complaint to progress through the complaints procedure by restricting contact to written or third party correspondence, preventing them from directly contacting staff with repeated telephone calls or emails.

The threat or use of physical violence, verbal abuse or harassment towards staff may result in the ending of all direct contact with the complainant. Incidents where physical violence is used or threatened will always be reported to the police.

This link (<http://www.spsso.org.uk/unacceptable-actions-policy>) provides access to the unacceptable actions policy used by the Scottish Public Services Ombudsman which we will use as guide when there is any doubt over the action to take.

2.13 Recording complaints

All communications expressing a complaint, however informal, will be forwarded or notified to our independent healthcare complaints manager who will maintain a record in our complaints database. The information recorded will include:

- the nature of the complaint (ie. the key issues causing dissatisfaction)
- whether the complaint relates to Healthcare Improvement Scotland, a registered independent healthcare provider or other service, and
- the action taken following any further response from the complainant that indicates continuing dissatisfaction.

Where complaints are formally investigated the record will include the timescale in which a response was sent following investigation and the outcome of the investigation.

2.14 Learning from complaints

We are committed to learning from complaints about the way we carry out our functions and will review the issues arising from the complaints received and how they were handled. We will provide an annual report to our Board summarising the complaints we have received, how they were handled, the outcomes and lessons learned.

2.15 Responsibilities

Our Chief Executive is responsible for ensuring that our complaints procedure is effective and that our approach ensures that appropriate investigations and actions have been completed before a response is sent following the formal investigation of a complaint.

Our independent healthcare complaints manager will:

- oversee the operation of the complaints procedure, liaising with the chief inspector and senior inspectors to ensure that complaints are recorded, investigated and responded to within the appropriate timescales
- ensure that a full record is maintained of all complaints, the subsequent actions taken and correspondence sent
- ensure that an annual report is produced for the Healthcare Improvement Scotland Board, and
- ensure that our complaints policy and associated procedures are well publicised and kept under regular review.

2.16 Staff training

We are committed to ensuring that our staff have the competencies and resources necessary to handle complaints effectively and will regularly review the training needs of investigative staff to ensure that they have the skills and confidence to use the authority delegated to them.

3 OUR PROCEDURES

Complaints relating to registered independent healthcare providers

3.1 Stages of the complaints procedure

We will follow the steps below in managing a complaint relating to a registered independent healthcare provider.

For issues where the complainant has not been able to resolve their complaint fully the provider or the complainant expresses a wish that Healthcare Improvement Scotland investigates their complaint.

- We will acknowledge and investigate the complaint. This may involve discussing the issues raised with the provider's staff, reviewing clinical and other records and reviewing the provider's investigation of your complaint.
- One of our senior inspectors will approve the report we produce.
- We will provide the complainant with a full response within 20 working days of the start of our review or let them know the reasons if we cannot achieve this.
- We will also let the provider know of our findings and any actions we require it to take.
- We will record the complaint details, outcome, and action taken and use this information to improve services.

Where possible, we always encourage the complainant to resolve the issues that concern them with the provider. If the complainant is unable to do this or would rather come to us first we will investigate their complaint. This will involve an initial assessment of the complaint to identify the key issues which we will, confirm with the complainant.

3.2 Outcomes

To inform all the parties involved in the complaint and to facilitate consistent reporting we will apply two outcome headings to each element of a formal complaint that we investigate. These are:

- **Upheld** – used where the facts giving rise to a complaint have been established in the investigation we have undertaken.
- **Not upheld** – used where the facts giving rise to a complaint have not been established in the investigation.

We will also take account of the outcomes and the issues raised as part of our approach to regulation through inspection and enforcement.

If for any reason the complainant is unhappy with the way Healthcare Improvement Scotland has managed their complaint, we will consider their concern using the procedure for complaints relating to Healthcare Improvement Scotland. However this will only relate to how well Healthcare Improvement Scotland has followed its procedures or the behaviour and attitude of its staff. There will be no further review of the issues relating to the services provided by the independent healthcare provider.

4 FURTHER ASSISTANCE

4.1 Healthcare Improvement Scotland

Our independent healthcare programme manager can provide information, advice and assistance to any person wishing to make a complaint or to any member of staff on the procedural aspects to be followed in dealing with complaints. The independent healthcare complaints manager may be contacted as follows:

Tracy Birch
Programme Manager
Independent Healthcare
Healthcare Improvement Scotland
Gyle Square
1 South Gyle Crescent
Edinburgh
EH12 9EB

Email: tracy.birch@nhs.net
Telephone: **0131 623 4701**

4.2 The Scottish Public Services Ombudsman

The Scottish Public Services Ombudsman provides an independent and free service to help people who are still having problems after they have made a complaint about a public service. The Ombudsman cannot help you make a complaint. However, the Ombudsman can help people if:

- they are finding it difficult to get an answer to your complaint, or
- they are unhappy with the results of a complaint they have made about Healthcare Improvement Scotland.

The Scottish Public Services Ombudsman
Freepost EH641
Edinburgh
EH3 0BR

Email: ask@spsso.org.uk
Telephone: **0800 377 7330**
Text message: **07900 494 371**

Website: www.spsso.org.uk

You can read and download this document from our website. We are happy to consider requests for other languages or formats. Please contact our Equality and Diversity Officer on **0141 225 6999** or email **contactpublicinvolvement.his@nhs.net**



www.healthcareimprovementscotland.org

Edinburgh Office: Gyle Square | 1 South Gyle Crescent | Edinburgh | EH12 9EB

Telephone: 0131 623 4300

Glasgow Office: Delta House | 50 West Nile Street | Glasgow | G1 2NP

Telephone: 0141 225 6999

The Healthcare Environment Inspectorate, the Scottish Health Council, the Scottish Health Technologies Group, the Scottish Intercollegiate Guidelines Network (SIGN) and Scottish Medicines Consortium are part of our organisation.



