



HSCAMP

Health and Social Care
Complaint Adjudication
Management Partners



Patients have more power than ever.

If patients have a positive result, they will share their experience with friends and family, which can lead to new business.

But if they have an adverse result, patients will complain, and if their complaint is not resolved, they may look to the Courts for redress if there is no independent adjudication service available.

WHAT IS ADJUDICATION?

Adjudication typically refers to a process where a neutral third party that is separate from the healthcare provider being complained about investigates and attempts to resolve the complaint.

WHY IS ADJUDICATION IMPORTANT?

For Patient: The adjudication process ensures fairness for patients by providing them with a platform to voice their concerns and seek timely resolutions when their complaints cannot be satisfactorily resolved through the independent healthcare provider's internal complaint pathway.

For Providers: Providing adjudication aligns the healthcare provider with the CQC's expectations for best practices. It also acts as a safeguard, minimising the risk of a patient taking an unresolved complaint to the courts prematurely.

IS ADJUDICATION MANDATORY IN THE UK?

At present, there is no regulatory requirement from the CQC, HIS, HIW, or RQIA for healthcare providers to subscribe to a complaint resolution service.

The current CQC guidance states that there is an expectation that patients should have access to independent resolution, and providers who do not offer such a mechanism must be able to demonstrate that patients are not disadvantaged by this.

Healthcare providers should note that while not mandatory, having an independent adjudication process streamlines the annual revalidation process by demonstrating to regulators the healthcare professional's commitment to high standards and patient safety, and facilitating continuous improvement through feedback, thus meeting the requirements for ongoing competence and adherence to regulatory standards.

HOW CAN ADJUDICATION REDUCE LEGAL RISK?

Access to adjudication is important for healthcare providers, not only to make CQC revalidation easier but because of the increasing significance of 'no win, no fee' solicitors in the healthcare space.

A "no win, no fee" solicitor's fees are contingent on the outcome of the case. This type of solicitor makes it easy for a patient to bring a claim by eliminating upfront legal fees and enabling those who might not be able to afford traditional legal services to pursue their claim.

Before taking on the case, the solicitor will assess it based on three main factors: merit, financial risk, and available resources. If the solicitor decides to proceed with the case, the healthcare provider must inform their insurer. At this point, they are liable for their policy excess and face the potential for higher insurance premiums at renewal, along with the possibility of sharing responsibility for any settlements.

How Can Adjudication Reduce this Risk?

Merit Assessment: If an expert adjudicator dismisses a complaint due to lack of merit, it discourages solicitors from handling the case on a no win, no fee basis.

Financial Risk: No win, no fee solicitors assume financial risk, so accepting a case dismissed by a medical expert could raise the risk to an unacceptable level.

Resources: Given the significant resources required to bring a claim, a solicitor would hesitate to pursue a case with an adverse decision and instead would prioritise claims with a higher prospect of success.

Without adjudication, patients must look to the Courts for redress. Subscribing to adjudication and incorporating an expedited adjudication clause in patient consent form, healthcare providers can obligate patients to pursue complaint resolution through adjudication before seeking assistance from no win, no fee solicitors. This safeguards providers from incurring substantial costs until such time that a determination of liability is made against them.

HOW DO CLAIMS IMPACT INSURANCE PREMIUMS?

Consider Dr Smith, who pays £15,000 annually for his medical indemnity policy. Over the past year, he has had 4 claims made against him, obligating his insurer to reserve £270,000 for potential settlements. The insurer's solicitors believe all claims are highly defensible, supported by expert opinions affirming the correctness of Dr Smith's surgical procedures and post-operative care. Despite this, the insurer has quoted Dr Smith £75,000 based on the Expected Loss Ratio methodology for the upcoming year's premium. Such a steep increase in premiums will financially pressure Dr Smith, possibly pushing him towards early retirement so he can access his run-off coverage for past surgeries.

Compounding Effect of No Win No Fee Solicitors

'No win, no fee' solicitors have made it easy for patients to bring a claim by eliminating upfront legal fees and enabling those who might not be able to afford traditional legal services to pursue their claim. These types of arrangements, coupled with external pressures like the cost-of-living crisis, have resulted in a significant increase in claims, as patients look to monetise their complaints. Solicitors working on a 'no win no fee' basis understand that insurance companies are more likely to settle claims, even those without strong merit, due to the certainty and cost-effectiveness of settling compared to contesting the claim in court. Consequently, with a higher volume of claims, insurers face the likelihood of more payouts, necessitating the need to allocate higher reserves and charging higher premiums at renewal.

The Power of Adjudication

By subscribing to adjudication and including an expedited adjudication clause in his consent form, requiring patients to follow Dr Smith's complaint process, he can prevent premature legal action. As 'no win no fee' solicitors bear the financial risk they are less likely to accept cases if an expert adjudicator deems them to be without merit. Patients desiring to continue their claims would need to pay for their legal services and given the high costs of bringing claims to court, this is likely to discourage patients with anything less than strong claims from proceeding.

WHO PROVIDES ADJUDICATION IN THE UK?

Apart from HSCAMP, other adjudication service providers include ISCAS and the Cosmetic Redress Scheme (CRS).

HOW DO ISCAS AND HSCAMP COMPARE?

Membership Cost:

HSCAMP: £595 for the multi-practitioner clinic, £295 for a single surgical practitioner and £145 for a non-surgical practitioner, if paid annually.

ISCAS: Fees are calculated based on turnover, ranging between £600 and £5800

Complaint Scope: Both cover the same types of complaints

Maximum Goodwill Award: Both can award a maximum of £5,000

Adjudication Costs:

HSCAMP: £800 per case adjudicated

ISCAS: Costs average around £1900 per case and can rise as high as £5,000 with the involvement of an expert.

Time:

HSCAMP: Aims to bring a decision within 28 business days

ISCAS: Takes between 3-6 months for a decision

Ancillary Benefits:

HSCAMP: Offers free complaint handling advice, policy documents and active patient feedback.

ISCAS: Provides discounted complaint resolution training.

Focus:

HSCAMP: Clinic focused, deploying adjudication to mitigate legal risk and minimise insurance premium increases.

ISCAS: Patient focused, advertises they help patients monetise their complaints and get them £5,000 in compensation.



"It takes months to
find a patient...
seconds to lose one."



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