

Seeking A Fair Resolution

Annual Report 2007-2008

Independent Complaints Reviewer to the Charity Commission

The ICR Mission

Seeking a fair resolution

The ICR Purpose

To provide a free, effective and impartial complaints review and resolution service that settles complaints in a proportionate manner and makes a positive difference for the future.

People can expect from the ICR team:

- ❖ Courtesy and respect
- ❖ Honesty and integrity
- ❖ Fairness and objectivity
- ❖ Flexibility
- ❖ Plain language
- ❖ Openness to suggestions and comments

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The Independent Complaints Reviewer

Jodi Berg was appointed as the first Independent Complaints Reviewer (ICR) for the Charity Commission in 2000 and was recently re-appointed for a further 3-year term of office. The ICR is not part of the management structure of the Charity Commission and her service is free to complainants. Jodi Berg is also ICR for a number of other public bodies. She is a solicitor and a Fellow of the Chartered Institute of Arbitrators with extensive senior management experience in the private and public sectors.

FOREWORD

I am pleased to present my annual report for 2007-2008. The independent complaint review service is an established part of the Charity Commission's response to customer concerns. It enhances public confidence in the Commission by offering those dissatisfied with its response to their complaints an opportunity to refer their complaints to me for an independent and unbiased opinion of the way it has managed its work or responded to their concerns.

As ICR I consider and investigate specific allegations of poor service. Where these are well founded I can recommend redress for the complainant, or suggest areas for improvement in process or communication. My experience is that the Commission takes my recommendations seriously, acts upon them appropriately, and often takes account of the lessons learned from complaint review in its strategic planning. Although my review may not always result in the outcome people initially hope for, complainants always achieve a better understanding of what happened and why. My aim is to bring things to a close for everyone involved, so that people are relieved of the burden of their complaint and the Commission can move forward with a better understanding of how to avoid causing similar problems or distress for others.

I have noted in past annual reports that there is often a grey area between dissatisfaction with a statutory or operational decision taken by the Charity Commission, and complaints about the way in which such decisions are made. Complaint review can be a second-best option for those who are really hoping for a change of decision, which cannot be achieved through complaint procedures and the examination of whether standards of service were met.

The introduction of the new Charity Tribunal gives people an opportunity to take concerns about Commission statutory decisions to an entirely independent judicial forum, if the internal Decision Review process has not resolved matters. This is a very welcome development and I have met with the President of the Tribunal, Alison McKenna, to discuss the establishment of protocols to remove any potential for people to fall into cracks between our respective offices.

Internally, the Commission has put time and effort into the development of an operational decision review process. This pilot scheme gives complainants a chance to challenge the application of operational, rather than legal, discretion or judgement by way of referral to an Outcome Review Panel for a second opinion on the outcome of their case. It is too early to assess whether this will make any significant difference to the rate of referrals to the ICR office, but it will certainly help to clarify the issues for complainants and allow them to make a more informed choice about the best way to take their particular concerns forward.

I am pleased to report that the Charity Commission's internal complaint handling processes continue to improve. Responses to complainants are usually courteous and informative and considerable effort is put into trying to resolve complaints. However, this is not always possible and in its final response, the Commission always reminds people that they can refer complaints to my office if they remain dissatisfied. No barriers are put in their way to prevent them from doing so. Once complaints are referred to me, we try to settle matters in the most appropriate way and I take this opportunity of thanking the Commission's Customer Service Team for the facilitative way in which they work with my office to achieve this objective.

During the year I visit Charity Commission offices to learn about the work of the Commission from front line staff and to tell them about my role. I also hold regular meetings with senior management, including the Chair, the Chief Executive, the Head of Customer Service and other members of the executive team. It is in the nature of independent review that, from time to time, the Commission will find my reports challenging. Nevertheless, the Commission's commitment to the principles of independent review does not waver. This would not be possible without support from the top, for which I thank the Board and the Executive Team.

This has been a landmark year for the ICR's office, as we celebrated our 10-year anniversary and welcomed a new ICR for Land Registry, Elizabeth Derrington. Together Elizabeth and I hope to build on the excellent reputation the office has gained for fairness, impartiality and customer service. Our staff are often commended by complainants for the service and assistance they provide and I wish to thank them for their enthusiasm and hard work. We pride ourselves on the quality of our work, and I am pleased to report that, once again, we achieved BSI accreditation for our complaint handling and commitment to continuous improvement.

My role as ICR for the Charity Commission is not always easy, but it is never less than stimulating and worthwhile. I hope that readers will find this summary of my work during the year interesting and informative. I welcome any comments and contact details can be found at the end of my report.

Jodi Berg
Independent Complaints Reviewer

THE YEAR IN FOCUS

'This is a most open and thorough report that justifies my complaint completely. It is obvious that it has taken a great deal of hard work and I appreciate the time you have spent on it' – comments from a complainant

As always, this year I have taken a keen interest in the internal and external issues that affect the Charity Commission, or are likely to have an impact on its work and the service it will deliver to charities and the public in the forthcoming year.

The role of a regulator is not always clear to organisations and individuals subject to its authority, and it is often even less well understood by the general public. However, everyone is able to form a view about what they would like that role to be and what they expect the regulator to do in various situations. The reality can be very different and this can result in complaints when people feel that the organisation has not lived up to their expectations.

Many of the complaints referred to me about the Charity Commission can be placed in this category. Despite the endeavours of the Commission to explain its remit and its approach to regulation, my experience is that people continue to read their own interpretation of these things into what is said in leaflets and on the Commission's website.

The principles of good regulation highlight that regulation should be proportionate and that a regulator should target limited resources towards those areas most at risk. However, it is not only important to channel resources in the right directions, but also to be transparent about the choices to be made when communicating with the public about this. Ultimately this can help to improve awareness and reduce complaints, particularly those relating to the lack of regulatory intervention on the Commission's part. This gives the Commission an ongoing task of trying to identify and plug the gaps in public understanding of its remit.

Case Study 1: Proportionality

Mr A made several complaints about the way the Charity Commission had acted. One of these was that the Commission had inappropriately used its policy of 'proportionality' as a reason to disengage from involvement with a charity. Mr A asserted that the Commission's decision was based on the fact that the charity had a relatively small annual income and the sums at issue in the complaint were likewise small. Mr A pointed out that the sums of money involved were significant within the context of this particular charity.

Following investigation, the ICR was satisfied that the size of the charity was not the only issue considered by the case officer when he made the decision not to take matters further. She noted that the officer also took into account the verbal and written evidence that was provided by all parties, including the charity, in concluding that this did not demonstrate serious cause for concern. In addition, he concluded that the risk to the charity itself was insufficient to justify further regulatory action. This meant that no further action was taken to test the charity's responses by, for example, visiting its premises and examining books and records. The officer had sought the opinion of his manager who had concurred with this view. The ICR noted that appropriate procedure was followed and a second opinion had supported the decision taken. She acknowledged that Mr A did not agree that issues of proportionality should guide the Commission's regulatory involvement in proven concerns, but explained that she had no authority to challenge the Commission's policy.

Despite the difficulties, there are successes, and I am certainly able to respond more efficiently to complaints now than in the past by reference to new information and explanations that offer greater clarity about the Commission's approach to regulation in most circumstances. This year, the Commission helpfully decided to provide further guidance on a number of specific subjects, which cause concern and confusion for charities and the public.

An example of this is the Commission's publication *Conflicts in your charity - A statement of approach by the Charity Commission*, which addresses an area of concern I have raised in past annual reports. This publication makes it clear that the Commission expects trustees to take responsibility for sorting problems out within charities, including the settlement of internal disputes which can be so damaging to their future. Commission involvement will be rare and will not start unless and until all other avenues have been tried to resolve matters, including professional mediation. As a result of the greater clarity provided by this guidance, this year fewer complaints have been referred to me about the way the Commission has dealt with charity disputes than in previous years.

Case Study 2: Bias

Mr B complained that the Commission had shown bias in favour of those on the opposing side of a dispute within a charity about the validity of co-opted trustee appointments, in particular in relation to the way it responded to concerns raised about a trustee meeting. The ICR concluded that the Commission had taken full account of the arguments put forward by the complainant that the meeting was invalid. The Commission's decision not to intervene in these circumstances was taken in light of all the available information and accorded with usual practice. The ICR noted that it is not the Commission's role to 'weigh-in' and support any particular side or individual in dispute with others, rather it is to focus on the well-being of the charity. The ICR was satisfied that the Commission had acted appropriately in this case and did not uphold the specific complaints made by Mr B. However, the ICR noted that Mr B had been given incorrect information about the possibility of applying for a decision review. She criticised this poor communication and recommended that an apology be given to Mr B.

Case Study 3: Regulatory Scope

Mr C was in dispute with others within a charity about the question of who were the valid trustees. He complained that the Commission had taken a view about this, ignoring the provisions of the governing document, based on fraudulent information provided in a series of telephone conversations. The ICR considered whether the Commission acted appropriately by properly reviewing the information to hand before reaching an opinion on the position of trustees, and also whether it had properly explained the status of its opinion to the respective parties.

The ICR was satisfied that the Commission did not ignore any particular piece of evidence submitted by Mr C or others regarding trusteeship. The ICR acknowledged Mr C's concerns that the Commission should not have expressed 'a view' about who were the current trustees, if this could not be clearly identified from the evidence provided. In addition she noted his concern that, despite the Commission's statements that: "it can only express a view" in its position as regulator, this 'view' is usually regarded as being authoritative and compelling. For this reason, Mr C felt that the legal status of any view given by the Commission in correspondence should be clearly explained.

Following review, the ICR agreed with Mr C that, although Commission officers referred to their statements as 'views', they were expressed in such a manner that the objective and independent reader would consider them to be definitive. In this particular case this could be regarded as evidence supporting the trusteeship of certain individuals. The ICR referred to a particular letter, which suggested that the charity's property should be held in the names of those people who in the Commission's view were the proper trustees "responsible for all policy, strategic and administrative decisions regarding the charity". The ICR concluded that it would be difficult to envisage how support for the position of these individuals

could be expressed more strongly and accepted that these letters could be regarded as prima facie evidence of trusteeship.

The ICR noted that in response to Mr C's complaints, the Customer Services Manager apologised on behalf of the Commission for any lack of clarity in explaining what was meant by the expression 'giving a view' and for any confusion caused by differing views being expressed over a period of time. He also said he would ask the relevant operational division to consider writing to the trustees to explain the status of the Commission's comments. However, the ICR found no evidence that this had happened and she criticised the lack of follow-up action, which devalued the complaint response given to Mr C. The ICR concluded that the Commission should have properly explained the legal status of comments about who were the trustees, but failed to do so. She recommended that an apology be made to Mr C.

A growing area for complaint referral is that of the Commission's response to allegations of political campaigning. Again I commented on this in my last Annual Report. New guidance has now been published aimed at helping charities to understand the extent to which they can engage in campaigning to promote the causes they espouse. The guidance explains more clearly where the line should be drawn and reduces the potential for charities to 'over-step the mark', thereby running the risk of regulatory intervention. I look forward with interest to seeing from the complaints I review how this guidance has helped those affected.

Another area that features in referrals to me is dissatisfaction with the Commission's response to personal complaints about charities. In this situation too, trustees are responsible for having mechanisms in place to settle their charity's internal complaints. The Commission cannot resolve personal complaints about charities or provide redress for the individuals who make them. Nevertheless, people with concerns about individual charities continue to turn to the Commission for help. They see no other avenue to go.

Case Study 4: Commission complaints procedure

Mr D raised a number of complaints about a charity, but was particularly concerned by its attitude towards a change in legislation and the way it had dealt with his complaint. He was dissatisfied with the Commission's response to the issues raised, and was frustrated that its complaint procedures only allowed for an appeal against the way in which the Commission itself dealt with him, rather than providing a review of the complaint he raised against the charity.

The ICR advised Mr D that the complaint procedures are designed to respond to complaints about maladministration on the part of the Commission itself, although she appreciated that this is not necessarily the root cause of a complaint. Despite this, the Commission may become the focus of the complaint when the way in which it responds to concerns is unsatisfactory to a complainant. This was the position with this complaint. The ICR informed Mr D about the limitations of her role and the purpose of the Commission's complaints procedures. She explained the distinction between a review of a statutory decision (a Decision Review) and other operational judgements, such as the one made in this case not to take action in respect of Mr D's complaint against the charity.

The ICR did not uphold Mr D's complaint. She pointed out that the decision in this case was not taken by the case officer alone, as he had the benefit of legal advice and the decision was also endorsed by the officer's manager. This meant that fresh eyes were cast on the issues raised without reaching a different conclusion. The ICR noted that complaints must be raised with the charity itself or taken forward by those who might be able to influence the charity.

However, the ICR was critical of the way a letter to Mr D was expressed giving a view about the substance of his complaint, although it did not specify the reasons for this. The ICR concluded that this

may have given Mr D the impression that the Commission disagreed with him and sided with the charity, rather than concentrating on what matters fell within its own area of interest, that is whether there was any regulatory breach that required attention. Despite this, overall, the ICR was satisfied that the issues raised by Mr D were fully considered in reaching a decision not to take matters forward and his complaint had been answered appropriately.

Where charities are commissioned to provide public services, the recently published report of the House of Commons' Public Administration Select Committee '**Public Services and the Third Sector: Rhetoric and Reality**' has made it clear that: "*Users' rights should not be affected by whether a service is provided directly by the State or contracted out.*" The report states that it is an important principle that users of such services should have the right to complain to an Ombudsman if they do not get satisfaction elsewhere. The Committee observed that people could refer their complaints to the Local Government Ombudsman or to the Parliamentary Ombudsman where necessary and, therefore, saw no need for a dedicated Charities Ombudsman. However, few people know about their rights when complaining about a charity and there are still very many charities that are either not subject to ombudsman authority at all, or only for the part of their work in providing public services.

This remains a very confusing area that leaves many members of the public still trying to obtain help from the Charity Commission that it cannot provide. This year my attention has also been drawn to the difficult position faced by volunteers who feel they have been treated badly and wish to complain about the charities they are involved with. Again there is no independent route for redress in these circumstances.

Case Study 5: Acting outside of remit

Mr E initially approached the Commission to complain about the actions of a charity in relation to long leases held by residents based on ancient and unusual rights. He asserted that the charity falsely informed leaseholders that they did not have valid leases and that this amounted to a fraud perpetrated on the residents. He felt that the Commission had a duty to investigate and was dissatisfied with the refusal to intervene on the basis that it could not make a determination about the validity of leases.

Mr E complained that Charity Commission had initially inappropriately intervened in the charity by raising doubts about the validity of the long leases held on charity properties. He asserted in his referral to the ICR that that the Commission was wrong to comment on the legality of such matters and was not qualified to give a judgement about this. Mr E asserted that the Commission's actions had 'overstepped the mark'.

The ICR found that the evidence was that the Commission's intervention had prompted the charity to take action to try to address the Commission's concerns, and the Commission was insistent about this based on its concern about what appeared to be inappropriately low rental returns for the charity. This conflicted with the legal principle that charities should obtain a market rental on their properties. Legal advice was taken by the charity and the Commission had also sought independent legal advice on the position regarding the leases. In due course, the charity had decided to offer to sell the leases to the residents and to increase rents. Based on his own expert legal advice, Mr E had argued that this action was unfair and inappropriate, as the leases were valid as they stood. He asserted that some residents had been disadvantaged by what had happened and incurred unnecessary expense in buying their freeholds that they could ill afford. Ultimately, the charity had accepted that Mr E's own lease was valid.

The ICR acknowledged that the issues raised by this complaint were particularly complex and went well beyond charity law. They concerned land law and property issues which could only be fully considered by experts in such matters. She commented that Commission staff, including its legal team, were not required to have specific expertise on these kinds of matters beyond the usual kinds of property situations

involving charities. The ICR was satisfied that the Commission was not maladministrative in raising concerns with the charity in a situation where it believed the trustees may not have been meeting the requirements of charity law. For this reason the complaint was not upheld.

However, the ICR noted the Commission's apparent determination to pursue the question of the validity of the leases. Whilst it is not unusual for the Commission to advise trustees to seek Counsel's opinion on complex legal issues to support their own decisions, in this case the way it pressed this 'advice' was 'strong in tone and content'. The ICR concluded that an initial judgement was formed that the situation regarding the leases needed to be sorted out, and the Commission was not prepared to accept the status quo. However, this was not the impression given to Mr E, to whom the Commission had expressed that this was a matter for the charity in which it could not interfere and in relation to which it had no particular view. The ICR found that, despite statements to the contrary, the Commission's actions went beyond a position of neutrality on the question of the validity of the leases. Whilst, in itself, this was not maladministrative, the Commission was not transparent about its own role in actions taken by the charity, and had inappropriately distanced itself from the situation by giving the impression that it had always remained neutral in its views and handling of the matter. The ICR criticised the Commission for this.

In March 2008, the Public Administration Select Committee published the first of its reports on its inquiry into Public Services: Putting People First. This report **'When Citizens Complain'** recognised that: *"public confidence demands robust and impartial processes for dealing with disputed complaints, including independent sector-specific complaint handlers where proportionate."* In this respect, the Charity Commission is ahead of the game in having a well-established independent process for the handling of complaints it has been unable to resolve. The Select Committee also noted that public bodies: *"should have a systematic and active strategy for monitoring and learning from complaints"* and here too the Commission has made real progress, now looking to learn not only from complaints referred to me but also from those it settles internally.

This has been an interesting and, no doubt, a challenging year for the Commission, as it coped with the final stage of implementation of the goals set out in its 3 year strategic plan in 2005, alongside undergoing significant restructuring of its services. I had the opportunity to visit the Liverpool office and see at first hand the new front line office approach to all communications, Charity Commission Direct. This new service appears to provide a more efficient service for charities and the public and a more effective administrative process for the Commission.

At the same time, the Commission is getting to grips with its new responsibilities as defined within the Charities Act 2006. This includes setting up procedures to facilitate the work of the new Charities Tribunal and, in particular, turning its attention to the issue of public benefit and the changes this introduces in its regulatory role. In its own Annual Report this year the Charity Commission referred to the 'unprecedented' response to the consultation documents it produced on this issue. This is certainly a live area for debate, which has the potential to engender complaints from many quarters as the Commission moves from the consultation to the implementation stage of its work. In the coming year, I will take a particular interest in any complaints about this area of the Commission's work and the lessons they may provide.

FACTS & FIGURES

“Thank you very much for your report. I am very pleased with the result and gratified that the majority of my complaints were upheld. It was not a straight forward case and was difficult to get a grasp of the true situation.” Complainant

Charity Commission complaints

During the year the Customer Services Team dealt with 43 Stage 1, and 19 Stage 2 reviews. Of the 177 issues complained about in 2007-08, 12 were upheld and 28 partially upheld.

ICR referrals

The ICR received 13 formal complaint referrals in the reporting year and 12 complaint reports were issued following review. These related to the investigation of 39 allegations of maladministration, covering a wide range of issues. Only 7 of these were either fully or partially upheld. However from time to time, even where no maladministration was found in relation to the specific allegations, general criticism was expressed about the way that the Commission dealt with matters. The main area of concern raised by complainants was how the Commission exercised its regulatory authority.

Comparison with the previous year reveals a welcome reduction in allegations made about a number of key areas: communication, complaints handling and practice and procedure.

| Issues reviewed by the ICR detailed by category | 2007-2008 | 2006-2007 |
|--|------------------|------------------|
| Advice | 1 | 2 |
| Bias | 9 | 7 |
| Communication | 1 | 6 |
| Complaints Handling | 5 | 7 |
| Cost | | 0 |
| Delay | 2 | 5 |
| Discourtesy | | 2 |
| Discrimination | | 1 |
| Mistakes | 2 | 1 |
| Other | 3 | 0 |
| Practice and Procedure | 10 | 21 |
| Register errors | 1 | |
| Responsiveness | 5 | 8 |
| Total number of issues reviewed | 39 | 60 |

During the year we also considered 14 approaches where a review was not necessary or appropriate. In the main, these approaches were made to the ICR prematurely because the Commission had not yet offered its final response to the complaint and we were able to give advice about the Commission's internal complaints procedure.

We also receive numerous approaches from individuals who may not be complaining about the Charity Commission directly but who have concerns about charities, or require information about other related issues. We try to deal with all enquiries in a helpful and responsive way, so that nobody is turned away without having a way to take matters forward should they wish to do so.

Speed of service

We set challenging speed of service targets. We audit our performance and try to learn from failures to meet deadlines. Although we try to act as quickly as possible, some investigations can take a long time, depending on the issues raised and the amount of information to be considered.

| Aspect of service | Target |
|------------------------|----------|
| Telephone calls | 1 day |
| Acknowledgement | 1 week |
| General correspondence | 3 days |
| Complete review | 36 weeks |

This year, the target completion period was reduced from 36 to 26 weeks reflecting a desire to improve our service, and provide a speedier outcome for the complainant. This reduction applies to all new cases received since January 2008. However, all reviews completed this year and reflected within this report have been measured against the previous target as all were received prior to January 2008. The average clearance time this year was 34 weeks.

Each complaint response issued by the ICR explains to people that they can refer complaints about this service to the Parliamentary and Health service Ombudsman, if they are not satisfied. During the reporting year the Ombudsman investigated no complaints of this kind.

Cost of the ICR to the Charity Commission

| Details of Costs | 2007-08 | 2006-07 |
|---|-------------|---------|
| Total cost of the ICR service to the Commission, including the ICR's fee, staff salary and contribution to the office running costs | £103,759.60 | £72,432 |

Charity Commission staff survey

In response to the ICR's survey of a cross-section of Commission staff, we are pleased to record that this year 100% of respondents knew about the ICR's role and 84% of these felt able to advise customers about our service. 100% of respondents considered the ICR to be independent of the Charity Commission. Most people were aware that the ICR visited the Commission's offices and agreed that this helped to raise awareness about the ICR service.

There was an encouraging increase in the proportion of respondents who had read the ICR's information leaflet, *Seeking A Fair Resolution*, and the ICR annual report for 2006/07. This reflects an improved distribution of these publications.

ABOUT THE ICR SERVICE

“Over the years I have had to deal with ombudsmen, the Standard Board of England, MP’s etc, but none of them have come anywhere near your standards of politeness, fairness and honesty and I thank you for that – it has certainly raised my morale.”
Complainant.

What is the ICR service?

The ICR service responds to complaint referrals made by individual members of the public or organisations in an objective and impartial way. The service is free to complainants. It is provided by an independent dedicated complaint-handling office, provided by a professional team of staff trained to respond appropriately to complaints and concerns about a number of public bodies, including the Charity Commission.

Team members are seconded to the office from other public bodies, including those for which Jodi Berg is the ICR. They provide helpful expertise, which assists our understanding of what are often complex issues. Secondments usually run for limited periods of time and are development opportunities for those involved. The intention is that at the end of the secondment period, staff will return to their original organisations or take up appointments elsewhere, taking with them the considerable skills and understanding they have gained in the course of their work at the ICR office.

We ensure that complainants understand the purpose and limitations of our role and how we go about our work by providing helpful public information, to which we always draw the complainant’s attention during our contact with them. We communicate with people in a clear, open and courteous manner, and in ways that meet their needs and preferences.

The Charity Commission’s internal complaints procedure

Since January 2008 the Commission has been running a pilot of its new complaints procedure, which not only considers complaints about the standard of service received, but also those which seek to challenge decisions arising from the exercising of operational discretion or judgement (as opposed to a statutory decision).

The stages of the internal process - When the Commission first receives a complaint it should in the first instance consider whether there is scope to resolve the matter within the area of the business in which the complaint originated. This is called Local Resolution. If settlement of the complaint is not achieved or the complainant is dissatisfied with the response received, they have the option of having the matter considered by a Customer Service Manager. Complaints that relate mainly to the outcome of a decision, and that are not resolved locally, can now be referred to an Outcome Review Panel. The Panel will consider whether the decision was reached in accordance with standard practice and procedure.

The third stage of the process is referral to the ICR and the Commission is required to signpost our service in its final response to a complaint.

The ICR role

People who are dissatisfied with the Charity Commission's response to their concerns can approach the ICR for an independent review of their complaint. Her aim is to bring consideration of the matter to an end by achieving a just and proportionate settlement of the complaint either by adjudication or conciliation. The ICR will consider allegations of maladministration against the Charity Commission, for instance a failure in its standards of service, or unfairness in how a person has been treated. The types of issues the ICR can consider are:

- Failure to follow correct procedure
- Discourtesy
- Excessive delay
- Failure to answer complaints fully and promptly
- Failure to apologise for mistakes or provide appropriate redress when things have gone wrong

The ICR cannot review complaints about Charity Commission decisions, although she can consider complaints about the way in which they have been made. We expect the Commission to be given a chance to resolve matters before complaints are referred to the ICR. However, because memories fade and information is only kept for a certain time period, complaints should be referred within six months of receipt of the Commission's final response to a complaint.

Making a complaint to the ICR

The ICR's leaflet *Seeking a Fair Resolution* explains the role of the office and contains a complaint referral form. The leaflet is available from all Commission offices or direct from the ICR's office. It is also available on our website: www.icrev.org.uk. Our website also contains information about our work and copies of past and current annual reports.

Complainants can contact us by telephone, fax, e-mail, or in writing. As far as possible, we try to communicate with people in ways that suit their needs and wishes.

Confidentiality

The subject matter of many complaints touches upon personal issues and this means that the ICR receives sensitive information from both complainants and the Charity Commission. We always explain how we will deal with information to ensure that there are no misunderstandings. As far as possible, we respect a complainant's wishes and protect information relating to their financial situation, their health or other personal facts that are not directly related to their complaint. However, we do need to exchange some information with the Charity Commission, such as the name of the complainant and what the complaint is about, in order to find out important facts about it.

We are able to see all of the relevant information held by the Charity Commission, including files and other data, and the ICR may refer to the information in her report to outline the background to a complaint and to give an explanation of her findings. Although we have the right of access to this information for the purposes of our investigation, we have no authority to release it to the complainant or any other third party. People requiring copies of information held on the Charity Commission's files or systems must make a Freedom of Information or Data Access request direct to the Commission. If such a request is made and we are examining relevant material, we return it immediately to allow the Charity Commission to deal with the request. The evidence is returned to us as soon as possible so that our review can proceed.

We do not publish information about complainants or their case, other than in an anonymised form in an Annual Report. We do not discuss individual cases with the media or any other third party, although we may refer to the kind of issues it brings to light, in order to encourage better understanding of the causes of complaints and how they can be avoided.

We comply with relevant legislation as far as ICR information is concerned and our Publication Scheme, which is available on our website, tells people what information is readily accessible.

Dealing with complaints

Step 1 When contacted by someone wishing to refer a complaint or raise a concern, we consider whether we can provide immediate information or advice to resolve matters. We never turn people away without trying to help by pointing them in the right direction, even if we cannot assist directly, either because their complaint falls outside of the ICR's remit or has not yet been referred to the Charity Commission itself.

Step 2 Once a complaint is accepted, we discuss the possibility of achieving an agreed settlement with the complainant. Success in this effort often depends on the realism of people's expectations and we try to manage discussions to inform people about the range of possible outcomes that can be achieved. If a possible agreement appears to fall within this range, we approach the Charity Commission to see whether it is prepared to take the required settlement action. This may involve agreeing to take certain steps, to provide information, or to offer an apology and explanation if things have gone wrong.

Step 3 In cases where resolution is not possible or appropriate, we agree a summary of complaint issues with the complainant, which sets the framework for our investigation. Once agreed, a copy of the summary is sent to the Commission, with a request for the relevant files.

Step 4 We scrutinise all of the information provided. The ICR considers the actions taken by the Charity Commission against its own published standards and procedures, and against recognised standards of administrative competence for public bodies.

Step 5 The ICR's report outlines the background to the complaint and her conclusions. Draft reports are offered for comment on the understanding that they remain subject to change should new information come to light. The final report is issued to both the complainant and the Charity Commission, and is treated as confidential by the ICR.

Step 6 Where recommendations are made, the ICR monitors their implementation. If systemic in nature, the Charity Commission has agreed to update the ICR on progress and outcomes.

The ICR's service principles

The ICR has associate corporate membership of the British and Irish Ombudsman Association (BIOA). We adhere to BIOA values of independence of judgment, fairness and impartiality, effectiveness and accountability. These are reflected in BIOA's published Guide to the Principles of Good Complaint Handling, to which this office is fully committed. These principles underpin our communication and procedures. They are:

Clarity of purpose. A clear statement of the scheme's role, intent and scope.

Accessibility. A service that is free, open and available to all who need it.

Flexibility. Procedures which are responsive to the needs of individuals.

Openness and transparency. Public information which demystifies our service.

Proportionality. Process and resolution that is appropriate to the complaint.

Efficiency. A service that strives to meet challenging standards of good administration.

Quality outcomes. Complaint resolution leading to positive change.

Additionally, the ICR office applies The Principles of Good Administration articulated in the Parliamentary and Health Service Ombudsman's publication, both to our own process and to our consideration of complaints about the Charity Commission. We apply these challenging standards to all our work so that complainants and the Charity Commission can expect us to deal with all referrals in a professional manner. Our procedures and performance are subject to strict quality control.

Finding out about other complaint handling organisations

You can find out more about BIOA and its members by visiting its website: www.bioa.org.uk. The ICR website also has links to other complaint handling and ombudsman services.

British and Irish Ombudsman Association members look for opportunities to learn from the experience and expertise of colleagues in other ombudsman and independent complaint handling bodies. In this way, we aim to enhance our service for complainants, providing worthwhile outcomes for them and for organisations complained about.

Feedback

We welcome suggestions and comments, whether positive or negative, and encourage this feedback by sending most complainants a quality questionnaire once the report has been issued. We also canvass a cross section of Charity Commission staff to find out whether they are aware of our service and what they think about it.

Internal complaints

The ICR's office has an internal complaints procedure for responding to people who are unhappy with the service they receive. Complaints make a valuable contribution to our understanding of what people want from our service and how we can improve it. Sometimes this will involve taking greater care to manage their expectations about what we can achieve on their behalf. When complaints are not upheld, it is not unusual for people to challenge the ICR's reports. She responds personally to issues raised to clarify why decisions were reached.

Occasionally, people raise complaints about our service, but often this dissatisfaction will stem from their disappointment with the outcome of review. In such instances we send a written acknowledgement of receipt of the complaint and an explanation of our internal procedure within 24 hours. Following a thorough investigation, the ICR sends a personal response to the complainant within 7 days.

During the reporting year, across our work for all 7 public bodies, we received only 3 complaints about our service. On the whole, the dissatisfaction expressed related to the ICR's findings rather than to the way the reviews had been conducted, however none of these were from Charity Commission complainants. The ICR identified several key learning points as a result of our analysis of these complaints, which have been taken into account in our procedures.

The Parliamentary and Health Service Ombudsman

In cases where the ICR's report has not resolved a complaint to the customer's satisfaction, there is a further avenue of complaint available by asking an MP to refer the matter to the Parliamentary and Health Service Ombudsman. Every final report issued by the ICR advises the complainant about the Ombudsman's Office. During the year the Ombudsman received 4 complaints from Charity Commission complainants who had undergone the ICR process, but none were taken forward.

“Whilst I am not formally acting in this matter, I would like to say that I have been very impressed with the level of professionalism and sensitivity you have shown in this matter – it certainly inspires confidence and is in stark contrast to the feelings of dismay and cynicism engendered by the Commission's conduct”

Agent on behalf of complainant.

About the Charity Commission

The Charity Commission is the independent regulator for charitable activity in England and Wales. It is funded by Government and in the year 2007/08 it spent more than £33 million on operating activity and capital investment. There was on average 471 full-time equivalent staff in post during the year, spread across 4 offices in England & Wales. There has been a 20% reduction in staff numbers since 2004-05.

The Commission's mission is to promote public trust and confidence in charities for public benefit by:

- enabling charities to maximise their impact
- ensuring compliance with legal obligations
- encouraging innovation and effectiveness
- promoting the public interest in charity

There are currently over 190,000 charities registered with the Charity Commission, with total incoming resources of nearly £45 billion, over 600,000 paid staff and over 927,000 trustee positions. The Commission's role is to help them achieve what they do in the most effective way possible.

Charities range from small groups meeting local needs, to large national and international organisations providing services to millions of people. An essential requirement of charities is that they are accountable, independent and operate for the benefit of the public.

More information about the Charity Commission together with a range of guidance for charities can be found on its website: www.charitycommission.gov.uk, or by contacting Charity Commission Direct:

Telephone: 0845 300 0218

Minicom: 0845 300 0219

By Post: Charity Commission Direct
PO Box 1227
Liverpool
L69 3UG

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