

# Independent Complaints Adjudication Service for Ofsted (ICASO)

## Scheme Rules

2022 edition

These rules apply to application forms received by CEDR on or after 1 April 2022 and should be read in conjunction with any guidance documentation that can be found at [www.cedr.com/consumer/education](http://www.cedr.com/consumer/education).

### 1. General

- 1.1 The Independent Complaints Adjudication Service for Ofsted (ICASO) (“the Scheme”) is administered by the Centre for Effective Dispute Resolution (“CEDR”). The Scheme provides an informal and independent way of investigating the manner in which Ofsted dealt with a complaint made by a Complainant, and to provide advice and recommendations to improve Ofsted’s systems and practices for dealing with complaints. This is done by way of a non-binding adjudication process (“the Adjudication”).
- 1.2 A Complainant is defined as anyone who has previously made a complaint to Ofsted through its internal complaints procedure, has exhausted that procedure and remains dissatisfied with the outcome reached.
- 1.3 The Adjudication will be undertaken by an independent adjudicator (“the Adjudicator”) appointed by CEDR from its Adjudication Panel (“the Panel”) that it maintains for these purposes.

- 1.4 Use of the Scheme is mandatory for Ofsted where an eligible application has been made to the Scheme by a Complainant.
- 1.5 The Adjudicator appointed under these Scheme Rules (“the Scheme Rules”) will make a decision on the complaint by considering the information received from the Complainant and from Ofsted. This decision will be either to make one or more recommendations to Ofsted to improve inspection and complaint handling procedures, or to make no recommendation.
- 1.6 The Adjudicator cannot overturn Ofsted Inspectors’ Judgements nor can the Adjudicator award any financial damages or compensation to the Complainant.
- 1.7 Any decision of the Adjudicator is non-binding. Ofsted shall have the discretion to action any or none of the recommendations made by the Adjudicator. If Ofsted refuses to comply with any of the Adjudicator’s recommendations, they must state their reasons for doing so.
- 1.8 The use of the Scheme is free of charge to Complainants.
- 1.9 Applications to the Scheme will be accepted from Complainants or their nominated representatives. If a Complainant wishes to nominate a representative to act on their behalf, the Complainant must provide signed authority with their application to the Scheme confirming that they agree to the representative acting on their behalf.
- 1.10 Any decision made by the Adjudicator appointed under the Scheme Rules applies only to the specific complaint referred. Under no circumstances does a decision made by the Adjudicator set a precedent.

## **2. Scope of the Scheme**

2.1 The Scheme can be used to adjudicate complaints made against Ofsted about:

- 2.1.1 Failure to follow its complaints procedure correctly;
- 2.1.2 Failure to respond in a timely manner;
- 2.1.3 Discourtesy by staff;
- 2.1.4 Failure to accept and/or apologise for mistakes;
- 2.1.5 The conduct of an inspector or its staff (including contracted staff working on behalf of Ofsted); and
- 2.1.6 The implementation of inspection and regulatory procedures and subsequent reporting following inspection.

2.2 The Scheme cannot be used to adjudicate a complaint that falls into one or more of the following categories:

- 2.2.1 A complaint about the judgment of an Ofsted inspector and/or the outcome of an Ofsted inspection;
- 2.2.2 A complaint relating to government policy, the content of legislation, funding or contracting;
- 2.2.3 A complaint from Ofsted staff, contractors or agents of the inspectorate;
- 2.2.4 A complaint where there are clear rights of appeal through a Court or Tribunal;
- 2.2.5 A complaint about a matter not covered by Rule 2.1 above;
- 2.2.6 A complaint that has not exhausted Ofsted's internal complaints procedure;
- 2.2.7 A complaint that has been referred to the Scheme more than three months after the Complainant received the internal review (Step Three) outcome letter from Ofsted.

2.3 If the complaint falls into one or more of the categories identified at Rule 2.2 above, the complaint will be withdrawn from the Scheme.

2.4 Where it is not clear whether a case is within the ICASO's remit, Ofsted will discuss this with the ICASO. However, the final decision on matters of jurisdiction rests with the Department for Education (DfE).

### **3. Applying to use the Scheme**

3.1 To apply to use the Scheme, the Complainant must first exhaust Ofsted's internal complaints procedure and receive an internal review (Step Three) outcome letter from Ofsted. The Complainant must then send a completed application form to the Scheme within three months of their receipt of the internal review (Step Three) outcome letter. If the Complainant requires any special assistance with their application, they can contact CEDR and reasonable adjustments will be made in line with the CEDR reasonable adjustments policy, which can be found on the CEDR website at [www.cedr.com](http://www.cedr.com).

3.2 When submitting an application form, the Complainant must provide the following:

3.2.1 A description of the precise issues that form the nature of the complaint about Ofsted; and

3.2.2 Any supporting documents on which the Complainant wishes to rely.

3.3 The Complainant is encouraged to clarify the complaint in as much detail as possible.

## **4. The adjudication procedure**

### 4.1 The Application

- 4.1.1 When an application form meeting the requirements set out in Rules 2 and 3 above is received by CEDR, CEDR will send to the Complainant confirmation of receipt within two working days.
- 4.1.2 Within five working days of receipt of the application form, CEDR will contact Ofsted to verify that the complaint has exhausted Ofsted's internal complaints procedure and that it falls within the scope of the Scheme. At the same time, CEDR will collate the information and supporting documentation provided by the Complainant and allocate a case reference number to it. Both the Complainant and Ofsted must quote this case reference number in all correspondence with CEDR regarding the case.
- 4.1.3 If CEDR considers the application to be valid, it will notify the Complainant of this and will provide Ofsted with a copy of the complaint and all supporting documents ("the notification"). CEDR will do this within seven working days of receipt of the application form.
- 4.1.4 If CEDR sends the notification to Ofsted before 4.00pm, Ofsted is deemed to have received it on that day. If CEDR sends the notification on or after 4.00pm, Ofsted is deemed to have received it on the following working day.
- 4.1.5 Once the notification is deemed to have been received by Ofsted, Ofsted has 20 working days in which to send CEDR a complaint summary and documents ("the complaint summary"). This will include background to the complaint, incoming complaint submissions and responses from Ofsted, plus inspection reports and additional key correspondence (where relevant). CEDR may, at its own discretion, grant Ofsted an extension of the deadline for providing the complaint summary.

## 4.2 The Complaint Summary

- 4.2.1 When CEDR receives the complaint summary, a copy of it will be sent to the Complainant.
- 4.2.2 If Ofsted does not submit a response to CEDR within the time allowed, the Adjudicator will have the discretion to proceed to make a decision considering only the information provided by the Complainant.
- 4.2.3 The Complainant has a period of five working days from the date on which the complaint summary is sent to them to provide any comments that they see fit. The Complainant is not required to submit comments on Ofsted's response. Any comments that are submitted must be restricted only to points raised in the complaint summary and must not introduce any new matters. Any new matters submitted by the Complainant at this stage will be disregarded by the Adjudicator.
- 4.2.4 If the Complainant makes any comments on the complaint summary, a copy of those comments will be sent to Ofsted, who may respond within a further five working days.
- 4.2.5 Any further comments that are received from the Complainant or Ofsted will be sent to the Adjudicator, who has the sole discretion as to whether or not to take them into account. If the Adjudicator agrees to take such further comments into account, a copy of those comments will be shared with the other party to the case for their information only.

## 4.3 The Decision

- 4.3.1 The Adjudicator appointed under these Scheme Rules will make a decision by considering the submissions and evidence received from the Complainant and Ofsted. CEDR aims for decisions to be

issued within 25 working days of receipt of the complaint summary.

- 4.3.2 The Adjudicator's decision will be set out in writing and will be sent to the parties by CEDR.
- 4.3.3 Ofsted will aim to respond to the Adjudicator's decision within 20 working days of receipt, outlining whether any recommendations have been accepted, and if so, the action Ofsted will take to address them.
- 4.3.4 CEDR will share Ofsted's response with the Complainant within five working days of the date of Ofsted's response. Ofsted may correspond further with the Complainant where relevant within an additional 20 working days.
- 4.3.5 The Adjudicator's decision cannot be reviewed or appealed under any circumstances.

## **5. Powers of the Adjudicator**

- 5.1 The Adjudicator will be fair and unbiased at all times and will act as quickly and efficiently as practicable.
- 5.2 The Adjudicator has the power to do any of the following:
  - 5.2.1 Change any of the time limits set out in these Scheme Rules;
  - 5.2.2 Request further evidence or documents from the Complainant or Ofsted, and set time limits in which the Complainant and Ofsted must provide such evidence or documents;
  - 5.2.3 If the Adjudicator considers that the complaint is complex or relates to a matter of public interest, it will be passed to the Senior ICASO Adjudicator and the parties will be informed by CEDR;
  - 5.2.4 Proceed with the Adjudication if either the Complainant or Ofsted does not keep to these Scheme Rules or any instruction or direction made pursuant to these Scheme Rules;

- 5.2.5 Consult any relevant evidence not presented by the parties (but the Adjudicator must tell the Complainant and Ofsted about such evidence and allow them to provide comments);
- 5.2.6 Receive and take account of any evidence the Adjudicator thinks is relevant;
- 5.2.7 End the Adjudication if, in the Adjudicator's opinion, the entirety of the complaint falls outside the scope of the Scheme.

5.3 The Adjudicator does not have the power to overturn the judgment of an Ofsted inspector or the outcome of an Ofsted inspection, nor can the Adjudicator award any financial damages or compensation to the Complainant.

## **6. Costs**

- 6.1 The use of the Scheme is free of charge to Complainants.
- 6.2 Neither the Complainant nor Ofsted is obliged to use legal representation, although either party is free to do so if they wish.
- 6.3 The Complainant and Ofsted must pay their own costs of preparing their cases. By using the Scheme, each party agrees not to take any legal action against the other to recover such costs.

## **7. Confidentiality**

- 7.1 No party involved in the Adjudication will give details of the Adjudication or the Adjudicator's decision to any person or organisation not directly involved in the Adjudication.
- 7.2 By using the Scheme, the parties agree that CEDR may gather, retain and publish statistics and other information in relation to cases.



7.3 The General Data Protection Regulation (GDPR) applies to the Scheme, and all data submitted to CEDR with regard to cases may be shared with Ofsted, including all personal data.

7.4 By using the Scheme, the Complainant gives consent for any relevant personal data held by Ofsted to be shared with CEDR and the Adjudicator for the purposes of the Adjudication.

## **8. Other rules**

8.1 CEDR will appoint a substitute Adjudicator from the Panel if the Adjudicator originally appointed is unable to deal with the complaint for any reason. CEDR will inform the parties if such an appointment is made.

8.2 Neither CEDR nor the Adjudicator will be obliged to enter into correspondence relating to any decision.

8.3 If the Complainant or Ofsted has a complaint about the quality of service provided in the course of the administration of a case, the complaint should be made through CEDR's published complaints procedure, copies of which are available on the CEDR website. The complaints procedure cannot be used to challenge the decision, the decision process adopted by the Adjudicator, or the content of these Scheme Rules.

8.4 The Scheme, including these Scheme Rules, may be updated from time to time. Complaints will be adjudicated according to the Scheme Rules in force at the time the Complainant applies to use the Scheme.