



ABOUT INDEPENDENT REVIEW	03
THE FUTURE	03
CASELOAD	04
TYPES OF COMPLAINTS	06
RECOMMENDATIONS & OFSTED'S RESPONSES	07
OFSTED'S COMPLAINTS PROCESS	10
ABOUT THE ICASO	13

# THE INDEPENDENT COMPLAINTS ADJUDICATION SERVICE FOR OFSTED



## ANNUAL REPORT 2023

# INTRODUCTION

**Graham Massie**  
Chief Adjudicator

I am pleased to present the Annual Report of the Independent Complaints Adjudication Service for Ofsted (ICASO) for 2023. This is our thirteenth report as the adjudication service provider for the Department for Education.

The Centre for Effective Dispute Resolution (CEDR) has operated this service for Ofsted since January 2009. Its purpose is to review the way in which Ofsted has responded to complaints made by members of the public who have engaged with Ofsted for a wide range of reasons. We are contracted by the Department for Education and our service runs completely independently of Ofsted. Our role is to provide recommendations, advice and guidance to Ofsted with a view to improving its complaints handling procedures.

It is important to note that we cannot investigate complaints into issues relating to government policy or legislation; or issues where there are clear rights of appeal through a Court or Tribunal. Nor can we overturn individual Ofsted inspectors' professional judgements.

A high proportion of the complaints that do reach us include concerns about judgements and other information included within inspection reports. Whilst such matters fall outside our remit, we are able to consider the quality of Ofsted's complaint-handling responses, including the clarity of explanations provided, and our overall view is that they demonstrate thorough consideration of concerns and set out clear analyses of the evidence and Ofsted's approach to the underlying issues.

This past year has seen a marked increase in our work, with the total of 52 reports issued being very much higher than we have seen in recent years. Analysis of the nature of complaints does not provide any clear explanation for this sudden increase, but I suspect that the source lies in the considerable adverse publicity that Ofsted received in the early part of the year following the tragedy at Caversham Primary School. A number of individual referrals this year cited this incident whilst complaining about overly robust or non-empathetic behaviours by individual inspectors. Our work did not identify any clear examples of serious shortcomings in those cases but, nevertheless, the actions of the new His Majesty's Chief Inspector, Sir Martyn Oliver, to introduce additional training for inspectors are to be welcomed.

My thanks and congratulations go to all those involved in complaints handling work as well as to former His Majesty's Chief Inspector, Amanda Spielman. We look forward to working as closely with her successor.

I would also like to thank the Department for Education for its part in overseeing the service and ensuring that it is running smoothly and effectively.

# ABOUT INDEPENDENT REVIEW

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Independent Review represents the final stage of Ofsted's complaints process for complaints about Ofsted's work. In the first instance, concerns about Ofsted's service should be raised directly with the individuals involved (step 1). If concerns cannot be resolved informally, a formal complaint can be raised (step 2), and there is an opportunity to request an internal review of the handling of a complaint (step 3) for concerns that remain unresolved.

**Only complaints which have been through this process and remain unresolved may be referred to our Independent Review service.**

We can investigate the manner in which Ofsted has dealt with a complaint, and we can provide advice and recommendations to improve Ofsted's systems and practices for dealing with complaints. These may include methods for addressing failings particular to a complaint or generally to improve complaint handling procedures.

**The ICASO adjudicators can investigate complaints into:**

- alleged failure to follow Ofsted's complaints procedures;
- alleged failure to respond to complaints in a timely manner;
- alleged discrimination in complaints handling;
- alleged discourtesy in complaints handling;
- alleged failure to apologise or accept mistakes in complaint responses; and
- alleged failure to handle concerns about inspector/staff conduct.

We cannot investigate complaints into issues relating to government policy or legislation; or issues where there are clear rights of appeal through a Court or Tribunal. We cannot overturn individual Ofsted inspectors' professional judgements, nor can we award any financial damages or compensation.

# THE FUTURE

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During the course of the year, Ofsted undertook a consultation on proposed changes to its post-inspection arrangements, including how it handles complaints about its work. One of the proposals was that a process for direct escalation of complaints to the Independent Review service would be introduced. This proposal has been well received by respondents and Ofsted has indicated their intention to take it forward in April 2024.

## CASELOAD

During 2023 calendar year, the ICASO issued 52 reports (noting that some were for complaints received in 2022).

The table below gives a breakdown of the main categories of complaints in recent years.

	2023	2022	2021	2020	2019
Childminders	5	5	2	5	1
Childcare on non-domestic premises	23	2	0	4	3
Children's homes	2	1	0	1	0
Fostering service	0	1	0	0	0
Independent schools	8	3	2	3	1
Primary schools	9	1	0	1	3
Secondary schools	1	2	0	1	0
Other	2	0	0	1	5
Further education colleges	2	3	2	1	2
<b>TOTAL</b>	<b>52</b>	<b>18</b>	<b>6</b>	<b>17</b>	<b>15</b>

We have analysed the geographic spread of settings across Ofsted's various regions.

	2023	2022	2021	2020	2019
East Midlands	1	0	0	1	1
East of England	3	2	1	2	2
London	16	0	0	2	2
North East, Yorkshire and Humber	4	3	0	1	1
North West	13	2	0	3	1
South East	8	4	3	2	5
South West	1	4	1	2	1
West Midlands	6	3	1	4	2
<b>TOTAL</b>	<b>52</b>	<b>18</b>	<b>6</b>	<b>17</b>	<b>15</b>

Although the number of cases referred to the ICASO remains very small in the context of Ofsted's considerable workload, the increased level of activity this year is notable. As the table below shows, there has been no discernible change in the subject matter of complaints raised. We have, however, observed a heightened strength of feeling in many of the cases referred to us, particularly as regards complaints about individual inspectors and their conduct of inspections. Some complainants made specific reference to the tragedy at Caversham Primary School, and it appears that the significant adverse publicity that Ofsted has received has contributed to the marked increase in complaint numbers.

The majority of this year's complaints came from representatives of inspected institutions (owner, manager, governing body or headteacher). This year we also received three complaints raised by individual parents of children attending a school or provider. Ofsted will not normally investigate a complaint about an inspection that is received from a third party not directly linked to the inspected provision. This is for reasons of confidentiality as Ofsted cannot provide third parties with any further explanation of findings beyond what is already in the published inspection report. We also received one complaint from an individual inspector and one from an individual who had applied to become a registered manager of a setting.

# TYPES OF COMPLAINTS

Consistent with previous reporting periods, the most common issue referred to the ICASO is that the complainant does not agree with the outcome of an inspection. Of the 52 cases on which we reported this year, 35 included a complaint about the inspection judgement awarded or statements contained within the inspection report. These are not matters on which we can comment.

There were also six complaints relating to the handling of requests for disclosure of information held by Ofsted under the Freedom of Information Act 2000 or Data Protection Act 2018. These matters fall outside our scope as the appropriate body is the Information Commissioner's Office.

**Amongst complaints that did fall within our terms of reference, the following table shows the number of times each type of complaint was raised:**

	2023	2022	2021	2020	2019
Alleged failure to follow procedures	31	13	1	4	3
Alleged failure to respond in a timely manner	0	0	0	1	2
Alleged discrimination	2	1	1	2	3
Alleged discourtesy	0	0	0	5	2
Alleged failure to apologise or accept mistakes	0	0	0	0	0
Inspector/staff conduct	24	13	5	6	3
Alleged failure in complaint investigation	38	23	5	14	9

*There can be several grounds of complaint in any given case*

As is evident from the above table, whilst the overall number of referrals for Independent Review has increased significantly this year, the overall profile of the nature of those complaints remain consistent with previous years.

As with last year, the most frequent heading of complaint is about alleged failures in the complaint investigation process. It is important to emphasise that this figure does not indicate a particular concern in this area, but rather it suggests that complainants generally appreciate that they can only come to the ICASO once Ofsted's internal complaints handling processes are exhausted.

This does not, however, appear to prevent people from still complaining about matters that are outside our remit, but it does mean that, if they are minded to come to the ICASO, they bring us not only their original complaint but also their concern that the Ofsted complaints process did not address it to their satisfaction. Thus, for example, of the above-mentioned 35 cases that contained a complaint about an Ofsted professional judgement (outside our scope), 23 also included a complaint that Ofsted's complaint investigation had been insufficient insofar as it had not resulted in a correction of that judgement.

This potentially brings the decision within our scope, at least as far as requiring us to consider whether or not the Ofsted complaints process has been properly completed, including the provision of clear explanations for the professional judgements which were reached. Again, however, it is not our role to question those judgements.

## RECOMMENDATIONS & OFSTED'S RESPONSES

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The remit of the ICASO is to investigate the manner in which Ofsted has dealt with a complaint, and to provide advice and make recommendations to improve Ofsted's systems and policies, either to address failings particular to a complaint or generally to improve complaint handling procedures.

We do not, therefore, regard our role as being able to make a choice about whether to uphold or reject a complaint. Nevertheless, it is appropriate for us to report that, across the 52 cases on which we reported, we did not encounter any serious failings.

In 32 cases, our adjudicators found that Ofsted had dealt with the complaint in accordance with its published complaints procedure and we did not have any advice or recommendations to make about improving the service.

We are pleased to report that every one of our adjudication reports was responded to personally by the then His Majesty's Chief Inspector, Amanda Spielman, or in her absence by her Deputy, Matthew Coffey. Every response included a specific comment and, where Ofsted accepted our recommendation, a commitment to action, or if Ofsted did not agree, a full explanation of their analysis.

This level of attention to complaints and what can be learned from them at the highest level within Ofsted is, in our view, very welcome.

As for the specific details of our recommendations and Ofsted's responses, we made a total of 21 recommendations in 20 cases, again a significant increase on previous years. Of these recommendations 9 were case-specific recommended actions and 12 were suggestions for general procedural improvements:

- Of the case-specific recommendations, nine related to points of detail in Ofsted's complaints responses which our adjudicators considered had not been fully addressed and/or explained.
- The remaining two case-specific recommendations arose from situations in which our adjudicator concluded that there may be merit in Ofsted undertaking additional work in relation to the inspection of setting if, in Ofsted's judgment, a procedural shortcoming complained about might have had a material impact on an overall inspection outcome.
- Of the 12 general recommendations for procedural improvements, three arose from the same issue, namely that, in early 2023, Ofsted changed its approach of involving external sector representatives in its step 3 panel reviews but did not immediately update the complaints policy set out on its website.

Our adjudicators had no difficulty with this policy change, which had originally been introduced as a temporary measure during the pandemic, but they did note that it would have been preferable for Ofsted to have updated its policy statement at the time so that individual complainants were made fully aware of how their concerns would be handled.

- The remaining general recommendations all related to suggestions as to improvements that Ofsted might consider making in relation to individual policies.

These covered detailed operational matters such as whether or not the complaints policy should provide an additional mechanism for raising complaints in the first instance other than to the individual concerned; whether there was sufficient guidance as to the roles of trainee inspectors or observers of an inspection; whether more guidance was required regarding the timing of pre- and post-inspection contact with a setting; and whether Ofsted should be more transparent about any actions taken in response to concerns raised about an inspector's conduct.



Out of our adjudicators' 21 recommendations this year, seven were accepted by Ofsted. Compared to previous years, this is an unusually low proportion, so we have examined those cases in detail in order to assess whether there has been any change of approach:

- Of the 11 case-specific recommendations, nine were not accepted by Ofsted, generally on the grounds that the issue had already been addressed within the correspondence relating to the Independent Review process.
- Of the 10 general recommendations, the five which Ofsted did not accept all related to recommendations for enhancements to policies which, in Ofsted's view, were unnecessary.

In each instance where our recommendation has not been accepted, Ofsted have provided a detailed explanation for their decision. In many instances, these explanations have provided us with a fuller understanding of the situation than may have been available from the previous correspondence between Ofsted and the complainant. We have reviewed Ofsted's responses in detail and are satisfied that all of our recommendations have been properly considered.

**The following table provides a historic summary of our reports, recommendations and Ofsted's responses.**

	2023	2022	2021	2020	2019
Reports with no recommendations required	31	14	6	13	11
Reports issued containing recommendations	21	4	0	4	4
<b>TOTAL REPORTS</b>	<b>52</b>	<b>18</b>	<b>6</b>	<b>17</b>	<b>15</b>
Case-specific recommendations made	11	3	0	6	3
General recommendations made	10	1	0	2	5
<b>TOTAL RECOMMENDATIONS MADE</b>	<b>21</b>	<b>4</b>	<b>0</b>	<b>8</b>	<b>8</b>
Case-specific recommendations accepted	2	2	n/a	4	1
General recommendations accepted	5	1	n/a	2	4
<b>TOTAL RECOMMENDATIONS ACCEPTED</b>	<b>7</b>	<b>3</b>	<b>n/a</b>	<b>6</b>	<b>5</b>

# OFSTED'S COMPLAINTS PROCESS

The following is the text of the *Complain about Ofsted* document that was in place throughout 2023.

## COMPLAIN ABOUT OFSTED

We welcome comments and suggestions about our work, using feedback to improve what we do and how our representatives carry out their roles. If you complain to us, we will:

- deal with your complaint fairly, thoroughly and efficiently
- acknowledge if we have made a mistake and take steps to put matters right
- learn from complaints to improve the way we work

## STEP RESOLVING CONCERNS QUICKLY AND INFORMALLY

- 1 We expect that, where possible, you will raise any concerns about our work as soon as they arise and directly with the individuals involved.

For concerns about inspections or regulatory events, this means raising them with inspectors before the inspection or regulatory event ends. This gives us an opportunity to clarify any misunderstanding or to resolve matters of concern quickly and informally.

If you have recently been inspected, in most cases you should raise any comments or concerns about the process within the timeframe specified once you have received your draft inspection report. We will consider any concerns you have raised when we finalise your report. This process is set out in our guidance for each different type of inspection.

## STEP MAKING A FORMAL COMPLAINT

- 2 If your concerns about Ofsted's work have not been resolved informally as set out in Step 1, you can raise a formal complaint using our online form.

Please do not use this form to complain about a provider that Ofsted inspects or regulates. There are separate steps for this: please see the first section of this guidance.

We will base our handling of your complaint on what is submitted in the form. We will not normally accept further complaint information or enter into dialogue with you once the form has been submitted. If you cannot access the form, we will make reasonable adjustments for you.

## THE PROCESS FOR THOSE WE HAVE INSPECTED RECENTLY

In most cases, if we have recently inspected your provision, you can raise any concerns when commenting on the draft inspection report. Therefore, we will not normally accept any formal complaint submission before we send you the final report.

We will only accept complaints about an inspection from the most senior leader in your provision, or the individual named in the inspection report as the responsible person (or their representative).

You should submit any formal complaint within 5 working days of us issuing the final report (we define a 'working day' to be any weekday other than a public holiday, not the days that an inspected provider might operate). We will not normally consider any complaint submitted after this deadline.

We will withhold publication of an inspection report while we consider your complaint, if you have submitted it within this deadline.

## THE PROCESS FOR ALL OTHERS

If you are complaining about a regulatory event or a joint inspection we have carried out with other agencies, you should submit your online complaint within 5 working days of either:

- the outcome being published (if there is one)
- the regulatory event (if there is no published outcome)

If you are complaining about anything else (such as the conduct of an Ofsted representative), you should submit your online complaint within 5 working days following the incident of concern. We will not normally consider any complaint submitted after these deadlines.

We will not normally consider a complaint about an inspection (or any other action we have taken) from a third party who is not directly involved, such as a parent or other user of the service. This is because we do not explain our inspection/regulatory findings to third parties, other than by publishing our reports or outcomes. If you are a third party, you should raise any queries directly with the provider. Those directly involved in the inspection or regulatory event are best placed to explain the process, the inspectors' findings and any action that the provider intends to take.

## WHAT TO EXPECT FROM US

You will receive a formal acknowledgement from us when we receive your complaint. This will confirm when we aim to respond to your complaint and who to contact if you have any queries. If we receive multiple complaints about the same issue, we may consider these together and provide a single response.

We will provide a written response to your complaint as quickly as possible, and normally within 30 working days of receipt of your complaint. The response will link together similar issues for conciseness and clarity, and will provide a conclusion on whether each main aspect of your complaint has been upheld. If it has not been possible to reach a firm decision on an issue, we will explain the reasons for this. The response will also include an explanation of any steps that we will take as a result of your complaint.

If we withheld publication of an inspection report while considering your complaint, we will normally publish the report soon after sending you the response letter.

## HOW THIS PROCESS WORKS ALONGSIDE OTHER PROCEDURES

Our complaints process sits outside the other procedures for disclosure of information held by Ofsted under the Freedom of Information Act 2000 or Data Protection Act 2018. We will not normally suspend a complaint while we consider a request for information, or disclose any inspection/regulatory evidence while a complaint is ongoing. However, complaint responses may include reference to evidence, when appropriate, to explain the inspection or regulatory outcomes.

Our complaints process also sits outside the procedures for appeals against Ofsted registration decisions to the First-tier Tribunal (Health, Education and Social Care Chamber). We will not normally accept a complaint while an appeal is ongoing and will not consider issues previously settled by a tribunal.

## STEP REQUESTING AN INTERNAL REVIEW

**3** If you are dissatisfied with the way we have handled your complaint, you can request an internal review using our online form. You should submit your request within 15 working days of the date of the response to your complaint. We will not normally consider any request for an internal review submitted after this deadline.

We will not normally withdraw a published inspection report while we consider a request for an internal review. The internal review will consider how we handled your complaint and whether we followed our policy and procedures for complaints about Ofsted.

The internal review will be based on information that was available to Ofsted when we dealt with your formal complaint. New concerns or new evidence in relation to your complaint will not normally be considered as part of the internal review.

We will provide you with a written response as quickly as possible, and normally within 30 working days of receipt of your request for an internal review. The response will include an explanation of any steps that we will take as a result of the internal review.

The review response is the final step in our internal complaints-handling process. After the internal review, we will not normally take any further action.

## INDEPENDENT AND EXTERNAL REVIEW

If you remain dissatisfied after our internal review, you can refer your complaint externally to the Independent Complaints Adjudication Service for Ofsted (ICASO). The adjudicator will review our handling of your complaint. You must do this within 3 months of the date of the internal review response letter.

If you are not satisfied with the outcome of the review by the ICASO, you can refer your concerns to the Parliamentary and Health Service Ombudsman.

## COMPLAINTS FEEDBACK

If you want to give feedback on how we handled your complaint, please refer to the details provided at the end of our complaint response letters.

## PRIVACY NOTICE

We will use the personal data you give us to handle your complaint. We will share information from your complaint with people whose actions you have complained about, relevant Ofsted staff who need it to do their job and other Ofsted teams and/or external agencies as appropriate. Apart from these exceptions, the complaints process is regarded as private and Ofsted will maintain the privacy of anyone who makes or is referred to in a complaint as far as possible.

For more information on how we use personal data and our data retention policy, see our privacy notice.

# ABOUT THE ICASO

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Full details about ICASO and an application form can be obtained from its website at:

<https://www.cedr.com/consumer/education/overview/>

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## REMIT

The ICASO is entirely independent of Ofsted and our contract for this service is with the Department for Education. The service is available to anyone who has previously made a complaint to Ofsted and is dissatisfied with the response.

We can investigate the manner in which Ofsted has dealt with a complaint, and we can provide advice and recommendations to improve Ofsted's systems and practices for dealing with complaints. These may include methods for addressing failings particular to a complaint or generally to improve complaint handling procedures.

The ICASO adjudicators can investigate complaints into:

- alleged failure to follow Ofsted's complaints procedures;
- alleged failure to respond to complaints in a timely manner;
- alleged discrimination in complaints handling;
- alleged discourtesy in complaints handling;
- alleged failure to apologise or accept mistakes in complaints responses; and
- alleged failure to handle concerns about inspector/staff conduct.

We cannot investigate complaints into issues relating to government policy or legislation; or issues where there are clear rights of appeal through a Court or Tribunal.

## POWERS

The ICASO cannot overturn individual Ofsted inspectors' professional judgements, nor can we award any financial damages or compensation.

Our recommendations are not binding upon Ofsted. However, if Ofsted decides not to comply with any recommendation, it must state publicly the reasons for doing so.

## THE PROCEDURE

The ICASO can only look at complaints which have first been through all stages of the internal complaints process operated by Ofsted.

People may contact the ICASO by telephone, e-mail or letter, but wherever possible we ask them to complete a formal application form to begin the process. The application form asks them to set out full details of their complaint and also that they supply us with all supporting information.

Upon receipt of an application, the ICASO administrator will contact Ofsted to ensure that the complainant has exhausted the internal complaints process. Once this confirmation is received, an ICASO Adjudicator will be appointed by the ICASO administrator within 48 hours and details of the appointment will be confirmed to both Ofsted and the complainant.

Our initial contact with Ofsted will include a copy of the application and a request that Ofsted supply a summary of what has happened so far in the complaint process within 21 working days.

The Ofsted summary will be sent to the ICASO Adjudicator who will send this to the complainant. The complainant will then be given five working days to submit any comments on the Ofsted summary. Comments must be limited to observations about the summary and cannot include any new information or re-argument of the case.

Upon receipt of the comments, if any, the ICASO Adjudicator will consider all documentation and in doing so decide if further information is required from the parties.

The ICASO Adjudicator will issue their report and brief written recommendations. These will be sent to both Ofsted and the complainant within 21 working days of the ICASO Adjudicator being in receipt of all information.

## PROVIDER ORGANISATION

ICASO is run by CEDR, the Centre for Effective Dispute Resolution.

CEDR is an independent, non-profit organisation with a mission to cut the cost of conflict and create choice and capability in dispute prevention and resolution. Since its founding in 1990, CEDR has worked with 300,000 parties in commercial disputes and helped resolve over 100,000 consumer complaints across 30 sectors.

It operates a number of mediation and adjudicative processes for local and national government, and for other public sector parties, as well as those in the commercial sectors. It also provides training and consultancy in mediation, conflict management and negotiations skills.

The ICASO adjudication team is:

- Claire Andrews
- Suzy Ashworth
- Victoria Brindle
- Laurence Cobb
- Abigail Day
- Tony Cole
- Tamsin Gill
- Graham Massie
- Joanne O'Rourke
- Peter Sansom
- Gerhardt Will

## KEY PERFORMANCE INDICATORS

CEDR's contract with the Department for Education contains a number of Key Performance Indicators relating to its operation of ICASO; these cover such matters as our speed of response to correspondence and enquiries, and the length of time taken by our adjudicators to issue their report once all relevant information has been provided to them. Overall, we are pleased to note that the team met the Key Performance Indicators during the period.



**Independent Complaints Adjudication Service for Ofsted**

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