

THE INDEPENDENT COMPLAINTS ADJUDICATION SERVICE FOR OFSTED



ANNUAL REPORT 2024

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INTRODUCTION

Graham Massie
Chief Adjudicator

I am pleased to present the Annual Report of the Independent Complaints Adjudication Service for Ofsted (ICASO) for 2024. This is our fourteenth 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. Nevertheless, 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.

This past year has seen a marked decrease in our workload, with just 40 reports issued as compared to 52 last year (although that was an usually busy year). This report sets out many of the underlying details relating to these reports, but our primary conclusion is that we did not identify any significant matters of concern, and our overall view is that Ofsted's complaints handling demonstrates a thorough consideration of concerns, and their responses set out clear analyses of the evidence and Ofsted's approach to the underlying issues.

After a public consultation, Ofsted introduced a revised complaints procedure that took effect for all events that took place after 4 April 2024. This does not change the nature of our role but it may, in due course, have an impact on our overall workload although it is still too early to be sure.

My thanks and congratulations go to all those involved in complaints handling work as well as to His Majesty's Chief Inspector, Sir Martyn Oliver. 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.

CHANGES IN OFSTED'S APPROACH

Following a formal consultation on their proposals for changes to Ofsted's post-inspection arrangements, including how they handled complaints about their work, Ofsted introduced a revised complaints procedure that took effect for all events that took place after 4 April 2024.

The key changes introduced by Ofsted following this consultation have been:

- enhancement of on-site professional dialogue during inspections to help address any issues before the end of the inspection visit;
- introduction of a new opportunity for providers to contact Ofsted the day after an inspection if they have any unresolved concerns;
- introduction of new arrangements for finalising reports and considering formal challenges to inspection outcomes;
- replacement of the current internal review process with a direct escalation to ICASO, and addition of a new periodic review of closed complaints, using external representatives from the sectors that Ofsted inspect.

From our perspective, these are all welcome changes which we expect should improve the overall dialogue between providers and Ofsted. This may, in turn, lead to fewer complaints reaching Independent Review, although conversely the introduction of direct escalation might suggest that our workload will rise.

To date, however, the evidence is unclear. Certainly, the overall number of complaints referred to us reduced significantly from 2023's level. However, it is too early to determine whether that variation is attributable to the procedural changes, especially given that the 2023 level was unusually high.

The full text of the revised procedure is provided later in this report.

ABOUT INDEPENDENT REVIEW

The effect of the above changes has been to accelerate complainants' access to our service but not to change its essential nature.

In the first instance, concerns about Ofsted's service should be raised directly with the individuals involved. If concerns cannot be resolved informally, a formal complaint can be raised. In the event that a complainant remains dissatisfied after Ofsted's formal response, then, for events that took place after 4 April 2024, they can refer the matter directly to our Independent Review service. This must be done within 3 months of the date of Ofsted's formal complaint response letter.

Our role is to 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.

CASELOAD

During 2024 calendar year, the ICASO issued 40 reports (noting that some were for complaints received in 2023). This is a marked decrease after the significant rise in activity that we reported last year.

The table below gives a breakdown of the settings to which complaints have related in recent years.

	2024	2023	2022	2021	2020
Childminders	6	5	5	2	5
Childcare on non-domestic premises	17	23	2	0	4
Children's homes	0	2	1	0	1
Fostering service	1	0	1	0	0
Independent schools	6	8	3	2	3
Primary schools	7	9	1	0	1
Secondary schools	0	1	2	0	1
Other	0	2	0	0	1
Further education colleges	3	2	3	2	1
TOTAL	40	52	18	6	17

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

	2024	2023	2022	2021	2020
East Midlands	6	1	0	0	1
East of England	3	3	2	1	2
London	9	16	0	0	2
North East, Yorkshire and Humber	4	4	3	0	1
North West	6	13	2	0	3
South East	7	8	4	3	2
South West	2	1	4	1	2
West Midlands	3	6	3	1	4
TOTAL	40	52	18	6	17

The number of cases referred to the ICASO remains very small in the context of Ofsted's considerable workload.

The majority of this year's complaints came from representatives of inspected institutions (owner, manager, governing body or headteacher). This year we also received five 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.

As the table below shows, there has been no discernible change in the subject matter of complaints raised.

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 40 cases on which we reported this year, 27 included a complaint about the inspection judgement awarded or statements contained within the inspection report. This is a similar proportion to last year's experience (2023: 38 such complaints within 52 reports). These are not matters on which we can comment.

Other matters raised with us which fell outside our scope included:

- Eight complainants raised concerns about the nature and scope of Ofsted's complaints policy. Of these, four had objections to the tight timetable for raising complaints, two to the limitations on third party complaints, one to Ofsted not sharing its evidence, and one to the broader concern that the complaints process as a whole is confusing and is not independent.
- Three complaints relating to the handling of requests for disclosure of information held by Ofsted under the Freedom of Information Act 2000 or the Data Protection Act 2018. The appropriate body for such complaints is the Information Commissioner's Office.
- One complaint related to Ofsted's statutory remit as the inspectorate for schools rather than the regulator, with the consequence that Ofsted had limited powers to investigate individual complaints about schools.

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

	2024	2023	2022	2021	2020
Alleged failure to follow procedures	17	31	13	1	4
Alleged failure to respond in a timely manner	0	0	0	0	1
Alleged discrimination	1	2	1	1	2
Alleged discourtesy	0	0	0	0	5
Alleged failure to apologise or accept mistakes	0	0	0	0	0
Inspector/staff conduct	23	24	13	5	6
Alleged failure in complaint investigation	28	38	23	5	14

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 decreased significantly this year, the overall profile of the nature of those complaints remains broadly 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 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 27 cases that contained a complaint about an Ofsted professional judgement (outside our scope), 17 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

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 40 cases on which we reported, we did not encounter any serious failings.

In 33 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 His Majesty's Chief Inspector, Sir Martyn Oliver. 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 ten recommendations across seven cases, again a significant decrease on previous years. Of these recommendations three were case-specific recommended actions and seven were suggestions for general procedural improvements:

- The three case-specific recommendations each related to points of detail within a complaint which our adjudicators considered had not been fully considered by Ofsted and may therefore require further investigation.

In each of these instances, Ofsted considered our recommendations but decided not to implement them on the basis that, whilst they related to individual cases, they were not consistent with policies in place at the time and there were insufficient reasons to justify a variation given the detailed consideration each of these complaints had received.

- Of the seven general recommendations for procedural improvements, four dealt with the same issue, namely the extent to which, when responding to a complaint about an individual inspector's conduct, Ofsted should provide complainants with a detailed account of their investigation findings and any resultant action taken.

In each of these instances, all of which related to complaints received before the implementation of Ofsted's new complaints procedure, Ofsted accepted the recommendation, noting that as part of the new arrangements they would be reviewing how they consider and address concerns that they receive about conduct matters.

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

One suggestion related to the situation where there is a difference of view as to what the available evidence indicates; if Ofsted determined that a conclusion could still be reached in spite of any conflicting evidence, it is important that they provide a clear explanation as to how any such conclusion had been reached. This was accepted by Ofsted.

One covered its approach to initial scoping calls with complainants and a suggestion that Ofsted might specifically ask for clarification of any additional evidence that might be available. This was not accepted by Ofsted on the grounds that the main purpose of the scoping call with the complainant is to discuss and agree on the key concerns and the scope of the formal complaint investigation that the investigator will carry out. As set out in paragraph 18 of the revised complaints policy (see below), Ofsted will not normally accept further information about a complaint or enter into further dialogue once this call has taken place.

The third suggestion was that Ofsted might upgrade the reporting of its findings following the initial informal complaints stage. This suggestion was not accepted by Ofsted on the grounds that this stage is not part of its formal complaints handling and, whilst a brief internal record is made of calls to their provider contact helpline, a copy of that record is not normally provided to callers.

In each instance where our recommendation has not been accepted, Ofsted has 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.

	2024	2023	2022	2021	2020
Reports with no recommendations required	33	31	14	6	13
Reports issued containing recommendations	7	21	4	0	4
TOTAL REPORTS	40	52	18	6	17
Case-specific recommendations made	3	11	3	0	6
General recommendations made	7	10	1	0	2
TOTAL RECOMMENDATIONS MADE	10	21	4	0	8
Case-specific recommendations accepted	1	2	2	n/a	4
General recommendations accepted	5	5	1	n/a	2
TOTAL RECOMMENDATIONS ACCEPTED	6	7	3	n/a	6

OFSTED'S COMPLAINTS PROCESS

The following is the text of the latest 'Complain about Ofsted' (for events that took place after 4 April 2024) document. It is available on the Ofsted website at:

<https://www.gov.uk/government/publications/complain-about-ofsted>

1. We will follow this process for complaints linked to inspections or other events that took place after 4 April 2024.
2. We welcome comments and suggestions about our work. We will use 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
 - if we have made a mistake, acknowledge it and take steps to put matters right
 - learn from complaints to improve the way we work.
3. Our complaints process is clear and simple to use. It is designed to enable all types of providers to access it easily, without the need for professional assistance. We handle all complaints on their merits, in line with this policy.

RESOLVING CONCERNS QUICKLY AND INFORMALLY

4. We expect that, where possible, you will raise any concerns about our work as soon as they arise and directly with the individuals involved.
5. If senior leaders in a provision have concerns about inspections or regulatory events, they should raise them with inspectors during the on-site visit. If it is not possible to resolve concerns with the lead inspector, senior leaders can telephone Ofsted during or after an inspection to speak with a senior inspector. This gives us an opportunity to clarify any misunderstanding or to resolve matters of concern quickly and informally.
6. If you want to raise a complaint about the behaviour of an inspector with regard to safeguarding, please telephone Ofsted as soon as possible to speak with a senior inspector about your concerns.

MAKING A FORMAL COMPLAINT

7. If your concerns about Ofsted's work have not been resolved informally, you can raise a formal complaint using our online form. We will base our handling of your complaint on what is submitted in the form. If you cannot access the form, we will make reasonable adjustments to enable you to do so.

THE PROCESS FOR THOSE WE HAVE INSPECTED RECENTLY

8. In most cases, if we have recently inspected your provision, you can seek a review of the inspection process, including inspector conduct and the judgements made, by submitting a formal complaint when you receive the draft inspection report. We will not normally accept a formal complaint before we send you the draft report.
9. 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. We will ensure that those raising complaints have the authority to do so on behalf of the organisation. If you work at a provision, please raise any concerns about an inspection directly to your senior leader in the first instance.

10. You should submit any formal complaint within 5 working days of us issuing the draft report (we define a 'working day' as 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.
11. We will withhold publication of an inspection report while we consider your complaint, if you have submitted it within this deadline.
12. If you have previously chosen to highlight minor points of clarity or factual accuracy when you received your draft inspection report, we will not normally accept any formal complaint or challenge later.

THE PROCESS FOR ALL OTHERS

13. 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 (unless a different deadline is stipulated in the relevant inspection handbook or framework) of either:
 - the outcome of the event being published (if there is one)
 - the date of the regulatory event (if there is no published outcome)
14. 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.
15. We will not normally consider any complaint submitted after these deadlines.
16. 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 for reasons of confidentiality towards those who have participated in the inspection and because we would not provide any further explanation of our inspection or regulatory findings to a third party, other than what is already in the published inspection report or outcome. If you are a third party, you should raise any queries about an inspection or regulatory event 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 as a result.

WHAT TO EXPECT FROM US

17. 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.
18. An investigating officer will attempt to contact you by telephone to discuss your concerns. Wherever possible, we will attempt to resolve complaints through professional dialogue as part of this telephone discussion. The investigating officer will explore the scope of your complaint during this discussion and will agree with you the key aspects for investigation. We will not normally accept further information about the complaint or enter into further dialogue with you once this conversation has taken place. This is to ensure that we consider and respond to your concerns in a timely way.
19. We will provide a written response to your formal complaint as quickly as possible, and normally within 30 working days of receiving your online form.

20. 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.
21. If we withheld publication of an inspection report while considering your complaint, we will normally issue you with a final version soon after sending you the response letter. The final inspection report will be published on our website 5 working days later.

HOW THIS PROCESS WORKS ALONGSIDE OTHER PROCEDURES

22. Our complaints process sits outside the public's right under the Freedom of Information (FOI) Act 2000 or Data Protection Act 2018 to access information held by Ofsted. The FOI Act solely concerns information being disclosed to the public. This is not an appropriate mechanism to consider requests from providers alone, as it can lead to the public obtaining inspection evidence before the report itself is published. However, complaint responses to providers themselves may refer to evidence or include extracts from the evidence itself, when appropriate, to explain the inspection or regulatory outcomes.
23. Our complaints process also sits outside the procedures for appeals against Ofsted's regulatory decisions to the First-tier Tribunal (Care Standards). We will not normally accept a complaint while an appeal is ongoing and we will not consider issues previously settled by a tribunal.

INDEPENDENT AND EXTERNAL REVIEW

24. If you remain dissatisfied after our formal response to your complaint, you can refer the complaint to the Independent Complaints Adjudication Service for Ofsted (ICASO). The adjudication service is provided by an external organisation. It will review our handling of your complaint, but cannot consider or overturn Ofsted's inspection or regulatory findings. You must refer any case to the ICASO within 3 months of the date of the formal complaint response letter.
25. 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.

PANELS

26. We will provide a sample of closed complaints to a panel for review. The panel will include external representatives from the sectors we inspect to provide challenge and transparency on how we have handled complaints about our work.

COMPLAINTS FEEDBACK

27. 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

28. We will use the personal data you give us to handle your complaint. We will share information from your complaint with the 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.
29. For more information on how we use personal data and our data retention policy, see our privacy notice.

ABOUT THE ICASO

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

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

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
- Tamsin Gill
- Helen Holmes
- 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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