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Seeking a fair resolution

**INDEPENDENT COMPLAINTS REVIEWER
FOR THE AUDIT COMMISSION**

ANNUAL REPORT 2009/2010

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Seeking a fair resolution

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The Independent Complaints Reviewer's Office

The ICR mission

Seeking a fair resolution

The ICR role and purpose

To provide a free, effective and impartial complaints review and resolution service for complainants that settles complaints in a proportionate manner, and in a way that makes a positive difference for the Audit Commission and those it serves.

Who is the ICR?

Jodi Berg is the Independent Complaints Reviewer for the Audit Commission. She is not an employee of the Audit Commission and her service is available, free of charge, to people and organisations dissatisfied with the Audit Commission's own response to their complaints.

Mrs Berg established the ICR office in 1998. The office currently deals with complaints about 8 public bodies and has a reputation for fairness, impartiality and sound judgement.

The ICR Team

The ICR is assisted in her work by a small team of staff, seconded from organisations whose complaints the office reviews. Anybody who contacts the office can expect from the team:

Courtesy	A polite and interested response to all contact
Honesty	A frank and open response to enquiries
Respect	A serious and considerate attitude
Objectivity	An independent and unbiased approach
Flexibility	Willingness to respond to the administrative needs of others
Plain language	Straightforward and jargon free communication

Comment from complainant to the ICR office

I think that it is very good that it is possible to complain to the ICR. A valuable public service. Thank you.

Foreword



JODI BERG

I am pleased to present my Annual Report for 2009/2010 as Independent Complaints Reviewer to the Audit Commission. Independent review is an important component in securing public confidence in the way in which public bodies carry out their work. As a regulator, the Audit Commission provides independent oversight of organisations within its remit to ensure that they give good value for money, offer efficient services to the public and seek to improve their overall effectiveness. So it is entirely appropriate that the Commission accepts independent review as a necessary final element of its own complaint procedures, for people or organisations dissatisfied with the response they receive to their complaints about its service.

For many people, making a complaint about a public body can be daunting. The ICR procedures are designed to remove difficulties and help to settle complaints in a fair and efficient way. In some cases, complainants expect more from the Commission than it is able to provide, either because of a lack of legal authority or because the action they are seeking would be disproportionate. In other cases, the Commission could have provided better service and people are entitled to appropriate recognition of this. Either way, all are entitled to a clear explanation of what occurred and why, and a fair decision about whether or not their complaint is justified.

Although ICR review can be challenging when service failures are identified, ultimately it is intended to be a positive experience for the Audit Commission as well as the complainant, by assisting it to recognise where services went wrong and how they can be improved. The Commission demonstrates its commitment to this process by acceptance of my recommendations on individual complaints and by a genuine interest in learning how its internal complaint procedures can be better managed. In turn, this results in a service culture in which complaints are welcomed and resolved, relationships strengthened and services improved.

I am pleased to report that very few people this year had cause to refer their complaints to me following the Commission's own response. This indicates a robust internal procedure that, on the whole, is able to resolve matters at the earliest opportunity. We are able to settle most referrals informally, by helping people to understand the Commission's role more clearly and, on occasion, by pointing them towards organisations that can provide further assistance. However, some complaints require thorough investigation and I do not hesitate to provide this when required.

It would be remiss of me not to thank the Commission's Board and, in particular, the outgoing Chief Executive, Steve Bundred, for their continuing support for the ICR role and the addition of an authoritative voice to final complaint settlement. Following the Commission's review of the effectiveness of the ICR process, I have been pleased to accept reappointment for a further term of office. I do so with enthusiasm and look forward to working with the Commission in the coming year and beyond.

Jodi Berg
Independent Complaints Reviewer
June 2010

The role of the ICR

Comment from complainant to the ICR office

You responded very well to my complaint and your actions have allowed me to draw a 'line in the sand'.

The ICR has been appointed to review complaints about maladministration on the part of the Audit Commission, which it has been unable to resolve through its internal procedures. Referrals cannot be accepted until the Audit Commission has given its final response to the complaint. Examples of maladministration might include:

- Delay
- Discourtesy
- Failure to follow correct procedure
- Discrimination or injustice
- Not answering complaints fully and promptly

The ICR has no authority to investigate:

- Complaints about maladministration on the part of organisations within the Audit Commission's regulatory remit, such as a local authority or health organisation. We advise complainants how they can take such concerns forward, generally by referral to the organisation itself or to a relevant Ombudsman service.
- Decisions made by the Audit Commission based upon the law under which it operates, although complaints about the way in which decisions were made may be investigated. The ICR cannot overturn decisions or order changes to reports.
- Decisions made by appointed auditors, whether employed directly by the Audit Commission or by a professional firm undertaking work for the Commission. The Audit Commission itself cannot challenge the professional judgement of auditors under their legal powers or under the Codes of Audit Practice. There are legal ways for challenging such judgements.
- Complaints about decisions taken in respect of the Audit Commission's legal powers to inspect and assess the performance of local authorities or housing associations. These are subject to a formal review procedure.
- Complaints made by Audit Commission staff.

Dealing with complaints

We respond to complaints in an inquisitorial rather than an adversarial manner. This means that we do not hold hearings like a court or tribunal. The ICR process is informal and gives people the chance to present information and evidence to us in documentary form, in person on the telephone or, if necessary, face to face. Most of the time judgements are reached on the basis of written evidence. Complaint review is a staged process:

Step 1 – Advice and assistance

When contacted by someone wishing to refer a complaint or raise a concern, we try to provide on the spot information or advice that can resolve matters. We never turn people away without trying to help them take complaints forward, if only by pointing them in the direction of another organisation.

Step 2 – Early resolution

Once a complaint has been accepted, we discuss the possibility of achieving an agreed settlement with the complainant. Resolution often depends upon how realistic people's expectations are, so we explain the possible outcomes that can be achieved. If the result they are hoping for is reasonable, we approach the Audit Commission and ask whether it is prepared to take the action required to settle matters, such as taking certain administrative action, providing information, or apologising if things have gone wrong.

Step 3 – Agreeing the complaint issues

If resolution is not possible, we agree a summary of the complaint issues with the complainant, which sets the framework for ICR investigation. Once agreed, a copy of the written summary is sent to the Audit Commission with a request for relevant evidence.

Step 4 – Investigation

We scrutinise all of the documentary information provided and, where necessary, speak to or meet the complainant or members of Commission staff. The ICR compares the actions taken by the Audit Commission against its own published standards and procedures, and against recognised standards of administrative competence for public bodies.

Step 5 – Report

The report outlines the background to the complaint and the ICR's findings giving reasons for her conclusions. Draft reports may be offered for comment and remain subject to change if new information comes to light. The final report is issued in confidence to both the complainant and the Audit Commission.

Step 6 – Recommendations

The ICR monitors the implementation of all recommendations. If systemic in nature, the Audit Commission has agreed to update the ICR on progress and outcomes.

ICR Service principles

The ICR is an associate corporate member of the British and Irish Ombudsman Association and adheres to its Principles of Good Complaint Handling, which are:

Clarity of purpose

We ensure that people understand the purpose and limitations of our role and how we go about our work. We publish clear information on our website and in our publications, and reinforce this with personal explanations.

Accessibility

Complainants can refer a complaint directly to us or via a representative or advocate.

Flexibility

We recognise the differing needs of people who contact us and tailor our responses and communication to the individual.

Openness and transparency

Our leaflet 'Seeking a Fair Resolution' and information on our website www.icrev.org.uk outline our processes in more detail

Proportionality

We recognise that a 'one size fits all' approach is not necessarily appropriate and tailor our response to suit individual circumstances.

Efficiency

We agree speed of service of service targets with organisations within remit. We measure case performance against those targets.

Quality outcomes

The aim of ICR review is to bring about closure for the complainant and to make a positive difference to the Audit Commission.

More information about BIOA and other complaint handling bodies can be found at: www.bioa.org.uk

Confidentiality

Complainants should feel confident about being honest and open when discussing their complaint and giving background information, some of which might be sensitive or personal. Whilst it is necessary to share some information with the Audit Commission in order to obtain relevant files or documents, or to find out important facts about the complaint, we do not divulge sensitive personal information.

When conducting a review, the ICR has the right of access to all relevant Audit Commission files and data. This documentation is loaned for the purposes of conducting a review and the ICR has no authority to release any information from the files. All requests for information temporarily held by the ICR office must be made directly to the Audit Commission. Both during and following review, we respect the privacy of individuals and do not publish information about complainants or members of Audit Commission staff, nor discuss specific cases with the media or any third party. However, we may publish information about the kind of issues an investigation has brought to light, to encourage understanding of the causes of complaints and how they can be avoided.

The Year in focus

Comment from complainant to the ICR office

This is again to say how impressed I have been with the ICR service. Mainly with the thoroughness of the ICR's review of my case but also with the communications side – your quick response to my emails, and helpfulness

ICR Casework

Not all initial contact with my office results in a complaint referral. However, it appears from our communication with complainants and other members of the public this year that there is greater awareness of the ICR service as a final 'port of call' for complaints about the Audit Commission. Despite this, and the Commission signposting all complainants to my office in its final complaint response, we received few referrals. I take this as a positive sign that the effort put in to settling complaints internally is proving successful. I am satisfied that the internal complaints procedure is robust and there are clear routes for people to follow if dissatisfied with the Commission's service.

When we did receive referrals we responded to them quickly and kept people aware of how long our action would take. For example, telephone calls were dealt with immediately or, where that was not possible, on the same day. Letters were responded to well within our 5 day correspondence target unless otherwise agreed with complainants that there would be a short delay.

The complaints that were referred to me show that people's expectations of the Commission are extremely high. Even though they may not have been personally disadvantaged by action taken by the Commission, people often feel that they have a public duty to point out what they see as process or communication problems. In doing so, they may be seeking an outcome that I cannot provide.

Mr A complained to the ICR about a published response given by the Audit Commission to a previously published article. Mr A had a special interest in the subject matter involved and so had taken particular note of the ongoing debate. Mr A thought that the Commission's response was rude in tone and that it failed to live up to the organisational standards published on the Commission's website. He raised a formal complaint with the Commission but was dissatisfied with the response he received, which he felt fudged the issues and in his opinion was "evasive".

Mr A approached the ICR for an independent view of the issues. He hoped that the ICR would persuade the Commission to reconsider its earlier response and publish a detailed reply to the original article. The ICR explained her role in considering whether there was a failure in process or customer service standards on the Commission's part

and informed Mr A that she has no authority to direct the Audit Commission to engage in a public or media debate on any subject.

The root of people's dissatisfaction with the Audit Commission is more often than not based on their concerns about the way in which a particular public body has acted, which they expect the Commission's appointed auditor to step in to correct. This leads to complaints about the auditor's judgements in which the Commission itself cannot intervene.

Mr B complained to the ICR that the Commission knew that it was deceived by his local authority, but allowed the deception to remain unchallenged. Mr B wanted the Commission to appoint a new District Auditor and to instigate a review of its protocols in relation to challenging auditors' decisions.

We explained the limits of the ICR's role to Mr B, specifically, that she has no authority to appoint a new auditor to his local authority. We further explained that, once appointed, auditors act under statutory authority entirely independently of the Commission. In light of our explanations of our remit, Mr B agreed that he understood the situation more clearly and decided not to take his complaint further.

Sometimes members of the public contact the ICR, not to raise a complaint, but to find out more about the Audit Commission and my role in reviewing complaints. We provide sufficient information to help them to both understand how things work in practice and to raise a complaint should the need arise.

Mr C contacted the ICR to ascertain which Government Department was responsible for overseeing the Audit Commission, and to which department the ICR office was accountable. The ICR explained that the Audit Commission is an independent public corporation, sponsored by the Department for Communities and Local Government. The ICR office deals with complaints about a number of government agencies and public bodies, one of which is the Audit Commission. It is independent of them all in relation to its management, process and decisions. Although the ICR office is not answerable to any particular government department, in relation to some public bodies, complainants have recourse to the Parliamentary and Health Service Ombudsman if they are dissatisfied with the outcome of their referral. However, the Parliamentary Ombudsman has no statutory authority to consider complaints about the Audit Commission, so consideration of a Commission complaint by the ICR represents the last stage.

On occasion, people who have already raised a complaint with the Audit Commission, put the ICR office on notice that they have a complaint being considered within the internal complaints process, and that this may lead to a formal complaint referral if the Commission's response is not satisfactory. This gives them added confidence in the internal process.

Following a period of correspondence between Mrs D and the Audit Commission, she contacted the ICR to bring the situation to our attention. She indicated that she was likely to pursue a complaint with the ICR in future, although it was not her intention to do so at that point. We agreed to place copy correspondence between Mrs D and the Audit Commission on file and we wrote to Mrs D to explain that no action would be taken unless and until a formal complaint referral was received. Correspondence resumed

between Mrs D and the Commission, which indicated that the Commission was willing to consider a complaint under the final stage of its internal complaints process. Mrs D subsequently withdrew her complaint.

Complaints Statistics

The ICR role encompasses keeping a watching brief on the Commission's complaints processes. This reporting year the Audit Commission recorded 16 complaints across the organisation itself and its contracted firms of accountants. A further 3 complaints were received, which were subsequently withdrawn before progressing to stage 1 review and are not included in the statistics for the overall number of complaints received.

Of the complaints received, 14 were settled at stage 1 of the internal process; 1 complaint progressed through both internal stages of review and was then referred to the ICR (stage 3) as the complainant remained dissatisfied with the Commission's responses. The ICR's investigation is ongoing. 1 further complaint was outstanding at stage 1 at the end of the reporting period.

Comment from Commission member of staff to ICR

I believe that the procedure works very well indeed....in particular I think that the stage of the process where the reviewer agrees the scope of the complaint with the complainant is particularly helpful.

The Commission's efforts to settle complaints at the earliest opportunity are reflected in these statistics. Complaints often include several issues raised within the one referral. The complaints referred to above between them included 21 separate allegations of maladministration. The type of allegations received are detailed in the following table:

Category	Complaint elements
Behaviour of staff	4
Communications	6
Timeliness	6
Quality of response	3
Failure to comply with standards	2

Of the 15 complaints settled, 12 were fully or partially upheld. The willingness to acknowledge complaints and apologise where matters have not been handled well, demonstrates a fair and objective approach to issues raised, which has stood the Commission in good stead in its attempts to achieve early settlements. Importantly, the Commission's internal complaints procedures provides an arms length review at stage 2 if people remain dissatisfied with the earlier response they are given.

This year we conducted a survey amongst a cross-section of Audit Commission staff to gauge the levels of awareness about the Commission's internal complaints process and the ICR Service. I was pleased to note that 90% of those who responded said that they are familiar with the Audit Commission's two-stage internal complaints process and are aware that the ICR provides the third and final stage of the complaints consideration.

Approximately 36% of those who responded had direct knowledge of a complaint referral handled by the ICR. The majority of these respondents thought that the ICR's reports represented a fair outcome for complainants and the Audit Commission alike. Some expressed the view that it would be helpful for the ICR to recognise in reports the challenges faced by the Audit Commission in dealing with challenging individuals who would not accept the limitations of the Commission's remit.

During my regular visits to the Commission I meet with staff at all levels from across all sections of the business, in order to explain the purpose of my role and how it can add value for the Commission. Comments received in response to my survey suggest that most respondents have found these visits useful and some would like future visits to be accessible to more staff. Others who are directly involved in dealing with members of the public and audited bodies would welcome a case-study seminar to assist them in dealing with future contact and complaints. These are helpful suggestions that I am keen to pursue.

Comment from Commission member of staff to ICR

I received a presentation at an event relating to CAA. It was very informative and the service you provide was made clear and your advice was valuable.

Looking forward - The 'modern watchdog'

Comment from complainant to the ICR office

Thank you for your letter...I can see that a lot of work and careful thought went you're your investigation and report. Thank you very much

The Audit Commission is a complex public body with a wide-ranging remit, so that one way or another, its work affects all of our lives. For example, this may be by carrying out audits of the way in which public money is used by local government or health organisations; by assessing our local council services; inspecting the quality of policing in our local area, or more recently, by assessing improvements in the health of children from birth to five years.

For this reason it is very important that the Commission communicates with the public it serves and looks for innovative ways of raising its profile, so that people are aware of the work being done to ensure that the money we give in tax is spent properly and provides good value. For most organisations, poor communication is often at the root of complaints, so this year I have taken particular interest in the ways that the Commission communicates with the public.

The Commission has kept up to date with communication developments, such as blogging, to engage with the public, stakeholder organisations and the media. Social media techniques also allow people to raise concerns or complaints in more informal ways. It is important that the Commission is alert to this and on the lookout for feedback of this kind. By doing this in a systematic way, and co-ordinating effort, the Commission can ensure that complaints are recognised quickly and managed effectively.

In other ways too, the Commission reaches out to the public and seeks involvement. For example, a dedicated and easy to use website, 'Oneplace', was set up as a public forum on which the six inspectorates involved in Comprehensive Area Assessment (CAA) could publish their findings. In December 2009, the Commission published the first tranche of assessments on the website, and invited members of the public to comment on how well their local services were judged to work together to meet local and national priorities. Public empowerment of this kind is in its infancy and it remains to be seen what effect it will have on the number or type of complaints made to the Commission. I can report that, to date, the ICR office has received no complaints about CAA, but there have been a number of service complaints that fell within the scope of the Commission's internal complaints process.

In partnership arrangements of this kind it is important to ensure that complaints processes reflect a spirit of joined-up working, so that complainants do not find it necessary to go through several organisations' procedures, with the risk of getting different responses to similar concerns. This cohesion was not fully achieved for CAA, where the process is complex. However, I am pleased to note that where issues are inextricably linked, the Commission did recognise the need for a co-ordinated response to complainants and took responsibility for complaint management. Although CAA is coming to a close, a lesson to be learned for future arrangements is that complaint arrangements should be co-ordinated from the start, and supported by clear public guidance to help people take forward complaints.

Whilst many of us rely on the internet to assist our daily lives, we must not forget that some people do not have the same ready access to information, and it is important that there is not simply a 'one size fits all' approach. I am pleased to note that, recognising this, the Audit Commission is keen to inform people about different areas of its work, even if they are in harder to reach groups.

About the Audit Commission

The Audit Commission is an independent public corporation responsible for promoting economy, efficiency and effectiveness in the use of public money. The Commission's work covers 11,000 bodies in England, which between them spend more than £200 billion of public money each year. Its remit includes local government, health, housing, community safety, police authorities and fire and rescue services.

Created in 1983, the Commission employs around 2,000 staff working in more than 250 locations throughout England. The Audit Commission website www.audit-commission.gov.uk gives more detailed information on what the Commission does, and how.