



Australian Government

Civil Aviation Safety Authority

**Industry Complaints Commissioner
Governance Arrangements**

Version 5.1 June 2022

Industry Complaints Commissioner Governance Arrangements

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Board of the Civil Aviation Safety Authority

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This is an internal CASA policy manual. It contains guidance material intended to assist CASA officers and delegates in carrying out their regulatory responsibilities and is available to the public for information purposes only.

You should not rely on this manual as a legal reference. Refer to the civil aviation legislation—including the Civil Aviation Act 1988 (Cth), its related regulations and any other legislative instruments—to ascertain the requirements of, and the obligations imposed by or under, the law.



Manual Responsibilities

Authoring Manager	Industry Complaints Commissioner
Approved by:	Board of the Civil Aviation Safety Authority
Date Approved:	June 2022



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Revision History

Amendments/revisions of this Manual are recorded below in order of most recent first.

Version No.	Date	Parts/Sections	Details
5.1	June 2022	2.2	Explicit exclusion of CASA reviews of ASAO decisions from ICC's jurisdiction
5.0	March 2022	1.1, 2.2, 2.4, 3.1, 3.2, 4, 7	Appointment of ICC provisions moved; plain english enhancements; ability of DAS to confer other functions; reporting.
4.1	March 2022	5.2	Clarification of complainant confidentiality provisions
4.0	June 2021	1.2, 2.2, 2.3, 2.5, 4, 6	Minor changes to better reflect current ICC practice; inclusion of Ethics and Integrity Function and fee waiver recommendations; amended complaints process
3.0	April 2019	1.3, 2.1, 2.5, 3.2, 5.2, 6	Removal of reference to the disbanded Ethics and Conduct Committee; provide clarification of the ICC's recommendatory powers.
2.0	May 2016	1.3, 2	Minor amendments
1.0	May 2015	All	First issue



Responsibility

All amendments to this policy shall be made in accordance with CASA Document Control policy and procedures.

Purpose of the Policy

This policy sets out the governance arrangements for the Industry Complaints Commissioner (ICC).

Application of the Policy

This policy applies to all CASA staff, contractors and consultants across all CASA functions and business units, and in all locations.

1 ICC reporting and accountability

The ICC is independent of CASA's corporate structure. The ICC's reporting and accountability is to CASA's Board.

2 Role and Functions of the ICC

2.1 Role

The principal role of the ICC is to deliver an identifiable and easily accessible mechanism to members of the public and aviation community for which:

- complaints may be made about the decisions, administrative actions or services provided by CASA staff, delegates or authorised persons to determine if they are wrong, unjust, unlawful, discriminatory or unfair without fear of reprisal; and
- impartial, timely and effective responses to complaints can be initiated and followed through to completion by CASA.
- non-binding recommendations can be made to CASA to address any issues (systemic or otherwise) identified in the course of reviewing a complaint.
- binding recommendations for refunds of regulatory service fees in instances of identified serious service delivery failings can be made to CASA.

In addition to these core functions, the ICC also:

- receives information from members of the public and the aviation community about manifest or perceived threats to aviation safety and contraventions of the civil aviation legislation, and refers this information to the most appropriate person and area within CASA.
- is CASA's Ethics and Integrity Officer (**E&IO**).

The ICC will have such other functions as the Board may from time to time confer where there is the capacity to perform them without interference with the ICC's



impartiality and principal role.

The Director of Aviation Safety (**DAS**) may refer matters to the ICC for review and investigation directly, provided that these can be undertaken without interference with the ICC's impartiality and principal role and the Board is subsequently informed.

2.2 Complaints the ICC can't consider

The ICC has a broad authority to review complaints

But there are some exceptions. Except to determine whether a quick, common-sense resolution is possible, the ICC can't consider:

- complaints about an action or decision by a CASA officer or delegate taken under civil aviation legislation which is capable of review in the Administrative Appeals Tribunal under the Administrative Appeals Tribunal Act 1975, or in the Federal Court or Federal Circuit Court under the Administrative Decisions (Judicial Review) Act 1977
- the outcome of applications made under subpart K of Part 149 of the Civil Aviation Safety Regulations for CASA review of decisions of Approved Self-Administering Aviation Organisations.
- any matter that has already been dealt with in the AAT or in a court
- any matter that the ICC has already considered (unless the complainant produces relevant new information)
- any matter that the ICC concludes would be more appropriately managed by another agency (for instance, complaints about CASA's response to Freedom of Information Act requests)
- any matter that is currently the subject of an investigation under Part IIIA of the Civil Aviation Act 1988, or by another government or law enforcement authority
- except as directed by the Board, any matter the ICC is satisfied the complainant was aware of more than 12 months before the complaint was raised with the ICC
- except as directed by the Board, complaints about CASA's regulatory, operational, or corporate policies and practices generally (as opposed to complaints about the conduct or actions of individual officers, managers, delegates or authorised persons)
- complaints made by a CASA employee about other staff, delegates or authorised persons. This does not prevent a CASA employee making a complaint to the ICC if the matter relates wholly to a private issue, unconnected to their employment
- complaints about a member of the Board
- any matter the ICC is satisfied the complainant does not have a legitimate or sufficient interest in
- complaints that are frivolous or vexatious, or the complainant is not pursuing in a reasonable way.



If the ICC receives a complaint that is not related to CASA, it will recommend the complainant contact another appropriate agency. As far as is possible, the ICC will assist in identifying that agency.

2.3 Receiving and Handling Complaints

The ICC will develop and maintain comprehensive procedures and KPI's governing CASA complaint handling, consistent with the relevant principles of best practice and good governance for complaint handling.

The policies and procedures developed by the ICC will be subject to review by the Board.

2.4 Advising Complainants on the Progress and Outcome of their Complaint

The ICC will ensure complainants:

- are advised how the ICC will be addressing their complaint;
- are kept advised of the progress of the ICC's review of their complaint; and
- are informed about the outcome of their complaint and the ICC's reasons.

3 ICC corporate reporting

3.1 Reports to the Board

The ICC will report to the Board on the status of all complaints received, and their resolution. Periodic reports to the Board are to be in a form determined by the Board, but will include:

- statistics and trends about the nature of complaints;
- statistics and trends about complaint resolution and performance against KPI's;
- the level of CASA cooperation with the conduct of ICC investigations and the implementation of ICC recommendations, both at an organisational and individual level; and
- recommendations made concerning organisational or systemic improvements, and actions taken as a result of the recommendations.
- the reasons CASA provides if it elects not to accept an ICC recommendation.

The ICC will prepare an annual report for the Board. The Board will normally plan to review the ICC Governance Arrangements in conjunction with its consideration of the ICC's annual report.



3.2 Ethics and integrity matters

The ICC will report to the Board on all E&IO matters referred, including when the ICC determines no further action is required.

Where the ICC as E&IO determines to investigate a matter of their own accord, the report to the Board will detail:

- the reasons why a matter was not referred to an internal CASA manager; and
- the outcome of each investigation, including findings and any recommendations the ICC as E&IO may make in relation to the further disposition of the matter.

4 Complaints against the ICC or the DAS

Where the ICC, a Board member, or the DAS is the subject of a complaint, the complaint should be referred to the Board, who will attempt to resolve the issue fairly or decide on appropriate action to do so.

5 ICC Records

5.1 Requirement to Keep Records

The ICC must keep a fully auditable and accessible record of all matters referred to the ICC and their resolution.

5.2 Confidentiality

Where anonymity is requested by a person making a complaint, the ICC will take all reasonable steps to maintain confidentiality. In some cases, however, it is possible that the enquiries ICC needs to make to properly consider the complaint will enable others to infer, deduce or assume the identity of the source of the complaint.

6 Access to Legal Advice

The ICC may request legal advice from CASA's Legal, International and Regulatory Affairs (**LIRA**) branch only on specific legal issues such as the operation of a legislative provision, but not on the outcome or its consideration of a specific complaint. The ICC is not bound by any legal advice it receives from LIRA.

The ICC may seek independent legal advice with the approval of the Board.



7 Appointment of Industry Complaints Commissioner (ICC)

7.1 The ICC is selected by the Board

The ICC is to be selected by the Board. The appointment to the role is then made by the DAS under section 83 of the *Civil Aviation Act 1988*.

7.2 Terms and Conditions of Employment

The ICC will be subject to the organisational and employment policies that apply to CASA staff at senior management group level. For the sole purpose of administration as an employee of CASA, the ICC shall report to the DAS.

Mark Binskin AC
Chair of the Board

Date: 23 June 2022