

Industry Complaints Commissioner Governance Arrangements

Role and Functions of the ICC

2.1 Role

- 2.1.1 The principal role of the ICC is to deliver members of the public and the aviation community with an identifiable and easily accessible mechanism by and through which:
- 2.1.1.1 complaints may be made about the administrative actions or services provided by CASA staff, delegates or authorised persons to determine if they are wrong, unjust, unlawful, discriminatory or unfair; and
 - 2.1.1.2 meaningful, timely and effective responses to complaints can be initiated and followed through to completion by CASA.
- 2.1.2 The ICC has the secondary roles of:
- 2.1.2.1 receiving 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 of referring such information to the most appropriate person and area within CASA; and
 - 2.1.2.2 managing CASA's policies and procedures concerning Conflict of Interest.

The ICC is also to have such other roles as the Board or Director of Aviation Safety may from time to time confer on the ICC, where the ICC has capacity to perform such other roles without interference with the ICC's principal role.

2.2 Complaints with which the ICC may not deal

The ICC has a broad authority to receive and respond to complaints of the kind mentioned in 2.1 above.

Issues with which the ICC may not deal are:

- 2.2.1 any action or decision by a CASA officer or delegate taken under or pursuant to the civil aviation legislation, which is subject to review in the Administrative Appeals Tribunal (AAT) under the *Administrative Appeals Tribunal Act 1975*, or in the Federal Court under the *Administrative Decisions (Judicial Review) Act 1977*;¹

- 2.2.2 any matter that has already been dealt with in the AAT or in a court;
- 2.2.3 any matter that is currently, or ought more properly be, the subject of investigation by, or under the authority of, another CASA manager;
- 2.2.4 any matter that is currently the subject of an investigation under Part IIIA of the *Civil Aviation Act 1988*, or which the ICC knows (or determines) is the subject of an investigation by another government or law enforcement authority;
- 2.2.5 except as approved by the Board or DAS, any matter the ICC is satisfied the complainant became aware of more than 12 months before the complaint was first raised with the ICC;
- 2.2.6 unless authorised by the Board or the DAS, 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), and complaints made by a CASA employee about other staff, delegates or authorised persons;
- 2.2.7 complaints about or concerning the conduct of a member of the Board, the DAS, the Deputy DAS, or the Associate DAS;
- 2.2.8 any matter in respect of which the ICC is satisfied the complainant does not have a legitimate or sufficient interest; and
- 2.2.9 complaints that are frivolous or vexatious or which the ICC is satisfied have not been made in good faith.

If the ICC receives a complaint or information about a matter that is not within CASA's jurisdiction, the ICC will advise the complainant accordingly, and recommend that the complainant contact another appropriate agency or authority. Insofar as it is practicable to do so, the ICC should assist the complainant in identifying a more appropriate agency or authority to which the matter might be referred.

2.3 Referral of Matters

Having regard to 2.2.3 above, in any case where a complaint that might otherwise properly be received and actioned by the ICC, but which has not been drawn to the attention of a more appropriate CASA manager, the ICC will advise the complainant that:

¹ *It is not uncommon that conduct that can give rise to a complaint may be or become a matter reviewable in the AAT or the Federal Court, but is not of necessity a matter that must only be dealt with in such a forum. The ICC will need to determine whether the issue to hand is such a 'hybrid' matter, and what the most appropriate method of dealing with that matter will be in the circumstances. The ICC should obtain the advice of the Legal Services Division in forming a view in respect of such matters.*

- 2.3.1 the matter will be so referred by the ICC in the first instance; and
- 2.3.2 the ICC will take no further action in relation to that matter unless and until:
 - 2.3.2.1 the complainant is, on reasonable grounds, dissatisfied with the manner in which the matter has been addressed and disposed of by the relevant manager; and
 - 2.3.2.2 the complainant raises the matter again with the ICC on that basis.

Where the ICC has referred a matter to a manager pursuant to the process contemplated by 2.3, the ICC will monitor the progress and disposition of that matter.

2.4 Receiving and Handling Complaints

Having regard to relevant principles of best practice and good governance in relation to complaint handling, the ICC will develop and maintain comprehensive procedures governing CASA complaint handling.

The policies and procedures developed by the ICC will be subject to review by the E&CC, the DAS and the Board.

2.5. Advising Complainants on the Progress and Outcome of their Complaint

Having regard to the process contemplated by 2.4 above, the ICC will ensure in so far as it is practicable to do so, that complainants:

- 2.5.1 are advised of the way in which CASA will be addressing their complaint;
- 2.5.2 are kept advised of the progress of CASA's management of their complaint; and
- 2.5.3 are informed about the outcome and disposition of their complaint or alternatively the reason why they may not be provided with full details about the manner in which their complaint is being or has been addressed, or about the outcome and disposition of the matter.

3. ICC Reports to the Director of Aviation Safety and the Board

4. Complaints against the ICC

Where the ICC is the subject of a complaint, the complaint should be referred in the first instance to the Director of Aviation Safety (DAS). The DAS will attempt to resolve the issue fairly.

If the DAS is unable to resolve the complaint against the ICC to the satisfaction of the complainant, the DAS is to refer the matter to the Board. The Board 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 disposition. The record is to include those matters referred by the ICC to other CASA managers.

5.2 Confidentiality

Unless otherwise approved by the Board or DAS, ICC records are confidential and not available for distribution except to the Ethics and Conduct Committee.