

Civil Aviation Safety Authority

Industry Complaints Commissioner

Terms of Reference

1 Role and Functions

1.1 The primary role of the Industry Complaints Commissioner (ICC) is to provide members of the public and the regulated aviation community with an identifiable and easily accessible means by and through which:

1.1.1 they may register complaints about certain kinds of conduct on the part of CASA officers, managers, delegates or authorised persons;

1.1.2 meaningful and effective responsive action can be initiated and followed through to completion in a timely fashion;

1.1.3 progress towards a fair resolution can be monitored and outcomes recorded; and

1.1.4 complainants can receive appropriate information about the disposition of the matters they have raised with the ICC.

The ICC does not deal with complaints from CASA employees about other employees, managers, delegates or authorised persons or about CASA's regulatory, operational or corporate policies and practices.

1.2 It is also the role of the ICC:

1.2.1 to receive and refer to the most appropriate persons and areas within CASA 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

1.2.2 such other functions as the Ethics and Conduct Committee may from time to time confer on the ICC.

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

2. Complaints with which the ICC may and may not deal

2.1 The ICC has a broad authority to receive and respond to complaints of the kind mentioned in 1.1 above.

Senate Rural Affairs and Transport Legislation Committee
Supplementary budget estimates 2010-2011
DEPT OF INFRASTRUCTURE

Tabled document no: 6

By: CASA

Date: 21 October 2010

- 2.2 There are limits on the kinds of matters with which the ICC may deal, however. Issues with which the ICC may *not* deal include:
- 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*;^{*}
 - 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, 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 Ethics and Conduct Committee, 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 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);
 - 2.2.7 complaints about or concerning the conduct of the Director of Aviation Safety, [the Deputy Director of Aviation Safety], a member of the Ethics and Conduct Committee (in his or her capacity as a member of that Committee) or a member of the CASA Board;
 - 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.
- 2.3 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:
- 2.3.1 the matter will be so referred by the ICC in the first instance; and

^{*} 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 necessarily 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.

- 2.3.2 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.
- 2.4 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 in accordance with the processes mentioned in 3.1.5 and 3.3 below.

3 Receiving and Handling Complaints

- 3.1 Having regard to relevant principles of best practice and good governance in relation to the handling and management of complaints in the context of a regulatory authority with duties, powers and functions of the kind CASA has, and subject to all applicable requirements of the law, the ICC will develop and produce a comprehensive set of procedures governing:
 - 3.1.1 the process by which complaints may be received by the ICC;
 - 3.1.2 the process by which complaints are registered and recorded on receipt;
 - 3.1.3 the process by which complaints are determined to be eligible for consideration by the ICC;
 - 3.1.4 the process by which complaints are referred to appropriate managers for action;
 - 3.1.5 the process by which the ICC will monitor the progress and disposition of complaints received and referred for action;
 - 3.1.6 the process by which the ICC will advise complainants on the outcome and disposition of their complaint; and
 - 3.1.7 the process by which the ICC will document actions taken pursuant to the processes referred to in 3.1.1 to 3.1.6 above.
- 3.2 The procedures developed by the ICC pursuant to 3.1 above, and any amendments to those procedures, will be subject to the approval of the Ethics and Conduct Committee.
- 3.3 Having regard to the process contemplated by 3.1.5 above, the ICC will consult regularly with the manager(s) to whom any complaint has been referred for action, with a view to:
 - 3.3.1 ascertaining *what* action the responsible manager proposes to take (that is, how the manager proposes to deal with the matter);
 - 3.3.2 *when* such action will be taken;

3.3.3 *whether* the action proposed was taken at the time(s) and in the manner proposed, and:

3.3.3.1 if so, *what* the outcome of that action was; or

3.3.3.2 if not, *why* not and *what* alternative action the manager has taken or proposes to take and *when* he or she proposes to take such alternative action.

4. Reports to the Ethics and Conduct Committee

4.1 The ICC will report regularly to, and as directed by, the E&CC on the progress and status of all complaints received, and the disposition of those matters in terms of the processes mentioned in 3.1 and 3.3 above.

4.2 The ICC may advise, and make recommendations to, the E&CC in relation to the manner in which a matter referred to a manager for action has been, or is being, addressed, having particular regard to the considerations mentioned in 3.3 above.

4.3 In appropriate circumstances, the ICC may recommend to the E&CC that a matter that has been, or might otherwise have been, referred to another CASA manager for investigation and responsive action, should be referred to an independent external investigator for investigation.

4.4 For the purposes of 4.3 above, the ICC will provide the E&CC with written reasons supporting the ICC's contention that 'appropriate circumstances' exist in any given case.

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

5.1 Having regard to the process contemplated by 3.1.6 above, and subject to the provisions of 3.2, the ICC will ensure, in so far as it is practicable to do so, that complainants:

5.1.1 are advised of the way in which CASA will be addressing their complaint;

5.1.2 are kept advised of the progress of CASA's management of their complaint; and

5.1.3 are informed about the outcome and disposition of their complaint.

5.2 The ICC will ensure that complainants understand that, and 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.