
Business Assurance Annual Complaints Review 2013-14



The Charity Commission

The Charity Commission is the independent regulator of charities in England and Wales. Its aim is to provide the best possible regulation of charities in England and Wales in order to increase charities' effectiveness and public confidence and trust. Most charities must register with the Commission, although some special types of charity do not have to register. There are over 160,000 registered charities in England and Wales. In Scotland the framework is different, and the Commission does not regulate Scottish charities.

The Commission provides a wide range of advice and guidance to charities and their trustees, and can often help with problems. Registered charities with an annual income over £10,000 must provide annual information to the Commission. The Commission has wide powers to intervene in the affairs of a charity where things have gone wrong..

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A. Introduction

The Commission operates a complaint system under which any expression of dissatisfaction with the service provided can be examined. In addition to the basic standards of service issues (eg timeliness, discourtesy and bias) all operational case outcomes which are not eligible for formal review under the Decision Review process can be re-examined (at the first stage of the process).

B. Scope of this report

The Commission's formal complaints process has 3 stages (2 internal and 1 external):

1. **Stage 1 review.** Complaints about both case outcomes and the Commission's standard of service are dealt with by the business team that handled the original matter. A Stage 1 review is the main point at which complaints are examined and, hopefully, resolved.
2. **Stage 2 review.** If the customer remains dissatisfied after the Stage 1 review, they have the option of a second review conducted by a member of the Business Assurance Team (BAT). This stage of the process is designed to provide assurance that the complaint has been properly reviewed and, if necessary, remedied at the previous stage. The Stage 2 review, therefore, examines whether the Stage 1 review:

- addressed the issues of complaint
- was sufficiently thorough and fair
- articulated the outcome adequately
- adequately remedied any shortfalls in service
- addressed any outstanding risks to the Commission

No review can be made of the case outcomes (ie the exercise of operational judgment) at this stage, but further remedy can be offered if any failures are identified in relation to the principles set out in the bullet points.

3. **Parliamentary and Health Service Ombudsman (PHSO).** The last stage in the process available to customers is the PHSO. The PHSO can review all aspects of a complaint including the standards of service provided, the appropriateness of the outcome, and whether any remedies already applied are sufficient.

This report touches on the Stage 1 reviews, but focuses primarily on those aspects of the process directly overseen by BAT ie Stage 2 reviews and PHSO cases.

C. Facts and figures

1. Number of complaints handled

Overall, the number of complaints received in year remained low when considered in the context of the vast number of customer interactions that take place across the Commission in a year. For example, during 2013-14:

- 88,822 telephone calls and 57,955 emails/letters were received our First Contact centre
- 6,681 applications for registration as a charity were received, and
- 1,664 cases were completed by our Operations teams

A total of 152 Stage 1 complaint cases were completed in the year, up from 113 in 2012-13. We cannot be sure whether this demonstrates a genuine increase in the number of complaints received or whether this reflects more accurate recording at stage 1. As we reported last year, in 2012-13 it appeared that there had been some under-recording of Stage 1 complaints, with expressions of dissatisfaction being dealt with in the normal flow of casework, rather than being categorized as complaints. The increase this year might, therefore, simply be a reflection of the increased staff awareness of the importance of using the formal complaints process, where appropriate. If the figures reflect a genuine increase in complaints then it follows that there is a lower escalation rate between stage 1 and 2.

Around one-third of the Stage 1 complaints (53) moved on to Stage 2 of the process. This is very close to the number examined at Stage 2 in the previous year and continues a consistent pattern in terms of numbers over several years.

Table 1: Overview of complaints/cases

Complaints handled within the formal complaints process	2012-13	2013-14
Stage 1 Complaints examined	113	152
Stage 2 Complaints examined	57	53

2. Complaint analysis

The origin of complaints also shows a marked consistency with the previous year. The highest number arose out of First Contact's work, at 34 cases. This is to be expected given that it is by far the highest volume area of the business. The only other business area generating significant numbers was Operations with 17 complaints (spread across our 4 teams: Liverpool 7, Wales 6, Taunton 3 and London 1).

It should also be noted that Investigation and Enforcement (I&E) cases rarely generate Stage 2 complaints. There are two main reasons for this. Firstly, complaints about this area of work are often expressions of dissatisfaction about operational judgments on live cases. Whenever possible, we try to resolve such issues as part of the on-going case. Secondly, many decisions on I&E cases are eligible for formal Decision Review and, so, are re-examined through that route. This is also true of Registration cases, which equally generate very few complaints.

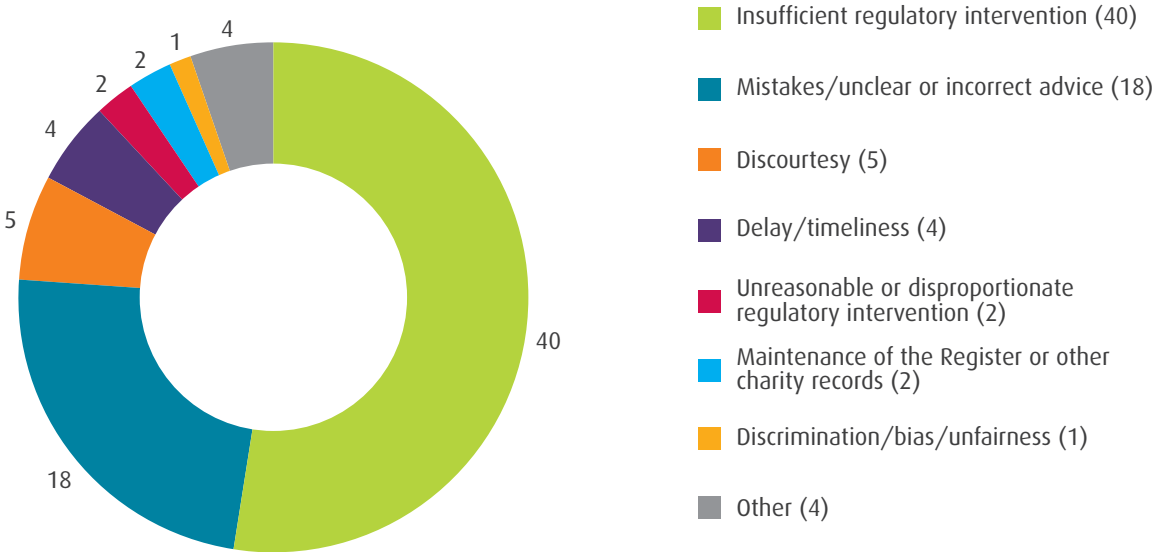
Table 2: Origin of all complaint cases

Origin of formal complaint cases	2012-13	2013-14
First Contact	39 (82 Stage 1s)	34 (110 Stage 1s)
Operations	17 25 Stage 1s	17 (34 Stage 1s)
Investigation and Enforcement	0 (0 Stage 1s)	1 (2 Stage 1s)
Registration	0 (4 Stage 1s)	0 (6 Stage 1s)
Other	1 (Stage 1s)	1 (0 Stage 1s – case fast-tracked to Stage 2)

3. Issues of complaint

This section analyses the breakdown of issues within the complaints which were examined in Stage 2 reviews. Of the 76 issues, 40 (53%) were complaints about insufficient regulatory intervention (see Chart 1). Although it is still the most common subject of complaint, in previous years the issue has been even more prominent. For example in 2012-13, 51 of the 79 complaint issues investigated (65%) were about a perception that the Commission had not intervened robustly enough. This movement might be a result of the Commission’s renewed emphasis on the need for robust regulation of the charitable sector.

Chart 1: Complaint issues



The only other issue to occur with any significant regularity is 'mistakes/unclear advice' (18 times or 24% of all issues). Complaints expressed as falling under this heading are often also effectively complaints about insufficient intervention, as customers express the view that a mistake must have been made if no, or very limited, action is taken in relation to the concerns they have raised about a charity.

Given the amount of casework carried across the business, it is very encouraging that very little dissatisfaction is expressed about other aspects of the Commission's service, such as timeliness (which arose only 4 times at Stage 2 in the year).

4. Complaint outcomes

Of the 76 separate issues of complaint examined, 12 were found fully in the complainants' favour and a further 14 were found partially in the complainants' favour. This amounts to 34% of complaint issues being adjudged to be justified to some extent at the conclusion of the Commission's internal procedure (up from 19% in 2012-13).

Nearly half of the upheld, or partially upheld, issues fell in the 'mistakes/unclear or incorrect advice' category. The most common reason for this was a failure in the original case to take into account a single, but significant, aspect of the customer's concerns.

Table 3: Complaint issue outcomes

Outcomes of complaint issues/cases examined	2012-13	2013-14
	79 Issues	76 Issues
Found fully in complainants' favour	7 (9%)	12 (16%)
Found partially in complainants' favour	8 (10%)	14 (18%)
Found fully in Commission's favour	64 (81%)	50 (66%)

Complaints about a lack of regulatory intervention were upheld in only 4 cases.

It can be seen as positive that failures of service by the Commission are found in relatively few cases. There is, though, one important factor in the current process to note in interpreting the data. That is that while the great majority of complaints are about perceptions that the Commission has failed to take sufficiently robust regulatory action in relation to concerns raised about charities, the Business Assurance Team is specifically not authorised at Stage 2 of the process to examine the substance of this issue. The main consideration is targeted at Stage 1 where the various divisions are expected to re-examine the initial decision they came to. At Stage 2 the Business Assurance Team's remit is restricted to considering whether the divisions considered and responded fairly and fully to all aspects of the complaint.

Table 4: Top complaint issues

Top 3 complaint issues		
Issue	Number of times examined	Number of times found fully or partially in complainants' favour
Insufficient regulatory intervention	40	4
Mistakes/unclear or incorrect advice	18	12
Discourtesy	5	3

5. Remedies

Whenever a failure of service has been identified it is vital that an appropriate remedy is applied. In deciding on what remedies are suitable we always bear in mind the PHSO's published 'Principles for Remedy'. As the table below shows, in this year the most common remedy was to make an apology to customers, but we also referred 10 cases back to caseworking teams for further work to be carried out.

In one case it was assessed that Commission delays had been directly responsible for a customer incurring unnecessary legal fees. An offer has been made to reimburse those fees, and a small consolatory payment has also been offered in recognition of the inconvenience caused.

Table 5: Number and type of remedies

Remedies	2012-13	2013-14
Business teams to carry out further work on case	5	10
Apology to complainant	13	16
Better explanation to the complainant	0	4
Commission to issue further guidance to trustees	1	3
Compensation	0	1 (Offered, but not yet paid)
Consolatory payment	0	1 (Offered, but not yet paid)
Guidance given to staff	6	2
Total	25	37

6. Timeliness

Our target for completing Stage 2 reviews is 20 working days, but this year we achieved this in just 24 of the 53 cases (45%). The primary reason for this is that this work is carried out by a team of 3 people who are also responsible for the Commission's handling of Freedom of Information requests. That FoI work is subject to a statutory target (also 20 working days) which means that it usually has to take precedence over complaint examination. Reflecting the reality of our workflow, we have revised the target time to 30 working days this year, aiming to achieve this in 90% of complaints.

7. Business Assurance review

During the year it was decided that a 'Business Assurance review' of the complaints process should be carried out, to ensure that it is fully fit for purpose. The fieldwork for this has been completed and, at the time of writing this report, we are awaiting publication of the outcome which we will incorporate into a review of the procedure planned for 2014-15.

8. Parliamentary and Health Service Ombudsman (PHSO)

Acting under mandate from government, the PHSO may consider taking forward a complaint, generally once all stages of the Commission's internal complaint procedure have been exhausted.

The PHSO has not yet provided us with figures on the number of complaints they received and considered about the Commission for 2013-14. However, we received contact from them regarding 12 complaints. 10 of these were completed, of which we know that 2 proceeded to full investigation and were completed without finding against the Commission. Past experience suggests that there will have been other complaints to the PHSO (there were 37 in 2012-13) but we will not know for certain until they produce their own annual report later in the year.

There is one on-going full investigation on which the PHSO gave an interim finding against the Commission and invited us to enter into discussion with the complainant about a suitable remedy. The case involved concerns expressed by umbrella body (itself a registered charity) about the correctness of advice we had given to charities which fall under its wing. We are awaiting the final decision on whether the outcome of our further work is considered to be sufficient.

Overall, it would appear that the number of cases taken up by the PHSO is low and to welcomed, particularly bearing in mind that this was the year in which the PHSO implemented a new policy of opening many more investigations than it did previously¹. It remains the case that remedies applied by the PHSO carry risk for the Commission that is not easily quantified.

9. National Audit Office

Following publication of the National Audit Office's (the NAO) report 'The regulatory effectiveness of the Charity Commission' in December 2013, they were contacted by a number of Commission customers who had been through our formal complaints process. The NAO sought further information from us about 3 of these complaints.

No substantive action was taken by the NAO as a result of these enquiries. We did, though, carry out a thorough review of one of the cases and, after obtaining a substantial amount of additional information from the charity involved, concluded that the original outcome had been correct.

¹ In a press release of 9 April 2014 the PHSO reported that it had completed 2,199 investigations in 2013/14 compared to 384 in 2012/13.

D. Conclusions

The number of complaints that the Commission receives about its work is very low. Nevertheless, we take all complaints that we receive very seriously and we ensure that each one is reviewed formally, at both stages of our internal complaints process, by staff who have not previously had any involvement with the matter that has caused the dissatisfaction.

Although it has featured slightly less prominently than in previous years, it remains the case that the majority of complaints stem from perceptions by members of the public that we should have taken more severe regulatory action on concerns that they raised with us about charities. Even with the Commission's renewed focus on its regulatory work, there will probably always be complaints falling into this category. In terms of context, it is important to remember that the Commission does not investigate complaints about charities **on behalf of the complainants**. It does so to fulfil its statutory obligations in reference to its risk framework.

It is also important to note that only 4 complaints about a lack, or insufficiency, of regulatory engagement were upheld at Stage 2 of the process, and also that the PHSO made no findings against the Commission on this during the year.

With regard to the PHSO, as noted in the body of this report, we do not yet have a full picture of the complaints they have received about our work. As far as we know they conducted just 3 full investigations. Finally, the background to this report should be noted. Year-on-year funding cuts mean that there is an ever decreasing number of Commission staff, but they continue to give our customers a highly professional and effective standard of service despite markedly increasing workloads.

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