

**SRA BOARD**

11 March 2015

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**Independent Complaint Resolution Service (ICRS) Annual Report  
January 2014-December 2014**

**Purpose**

- 1 To present the Board with the Independent Complaint Resolution Service's (ICRS) annual report providing an assessment of how we handled complaints about our service in 2014 and key themes identified from complaints.

**Recommendations**

- 2 The Board is asked to:
  - a) note the content of the recently published ICRS Annual Report 2014; and
  - b) note the main areas we intend to focus on in 2015 to improve our service to the complainants (paragraphs 8 -11).

**If you have any questions about this paper please contact: Rachel Pillinger, Complaints Manager, [rachel.pillinger@sra.org.uk](mailto:rachel.pillinger@sra.org.uk); 0121 329 6009.**

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### **Background**

- 3 When we developed and implemented our complaints policy in 2010, we wanted to include an external element to the process. It was and remains a priority for us to not only deal with complaints about our service effectively and promptly but also to ensure that members of the public and the profession have confidence that complaints are being dealt with fairly and transparently. We recognised that the appointment of an independent reviewer would help us achieve that. Independent review also reflects good practice found in the public sector. We wanted to lead the way amongst legal regulators following the new statutory framework introduced by the Legal Services Act and in particular, following the abolishment of the Legal Services Ombudsman, who previously investigated concerns about the manner in which we dealt with complaints about regulated individuals, we felt it was important to retain an element of impartial oversight.
- 4 We operate a comprehensive 3 stage procedure for handling complaints made about our service. At Stage 1 complaints are dealt with by staff (usually managers) in the operational areas in which the complaint arose. If dissatisfaction remains, complaints are escalated to Stage 2 and are dealt with by the central Complaints Team. If complainants remain unhappy they can request a review by the Independent Complaint Resolution Service (ICRS) at Stage 3, the final stage of the complaints procedure.

### **Complaint Numbers and Improvements made**

- 5 We dealt with 8% fewer complaints overall at stages 1 and 2 of our complaints process in 2014 compared to 2013.

	Stage 1	Stage 2	Stage 3
2013	1055	260	34*
2014	931	278	26*

\* This is the number of matters fully reviewed by the ICRS, the number of referrals to the ICRS was higher but some matters were out of remit, out of time or not pursued further by complainants.

- 6 It is encouraging to see that the ICRS has noted that there is significant improvement in the standard of the stage 1 responses (page 19) and that the quality of stage 2 replies continues to be of an extremely high standard (page 20).
- 7 Whilst the number of complaints represent a small proportion of the many thousands of contacts we have with our stakeholders, complaints provide invaluable information about how we are performing and are perceived as a regulator and importantly, enable us to identify actions to improve. Complaints

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have led to a number of incremental improvements to service this year, including improvements to processes, procedures and our website.

- 8 Of particular note was the implementation of a new approach to communication with complainants. We now routinely provide complainants with information about the regulatory steps we might take and the outcome of a complaint about a solicitor. We have strengthened our letters and customer information in this area and will continue to refine the process and our communications in 2015. This has been the biggest single source of dissatisfaction from consumers in previous years.

### **Focus for 2015**

- 9 There are three main areas of note that we are focusing on in 2015 that will improve our service and address some of the themes identified by the SRA and the ICRS.

### **Communication with stakeholders**

- 10 Our communication with our stakeholders has been identified as a key theme by the ICRS and SRA, particularly in regard to tone and clarity of communication. A comprehensive body of work will take place this year to effect change across all of our external communications and transform our tone of voice. A working group, that includes members of our Board, has already been established to oversee the overall approach. We want to ensure all our communications meet high standards and are clear, transparent and credible.

### **Operational improvement**

- 11 In terms of operational performance, this year we have committed to making significant changes to the way in which we deliver our operational activities through the implementation of new processes, information systems, supporting guidance and criteria alongside strengthening the capabilities of our staff to create a stronger focus on customer service excellence and high levels of performance.

### **Proportionality of regulatory action**

- 12 Finally, in respect of concerns raised by those we regulate about the proportionality of our regulatory action, we will be implementing clearer criteria and guidance to help our decision-makers assess, in a consistent way, the thousands of issues that are referred to us each year. This will both aid the consistency of our approach and the allocation of resources to ensure that we are addressing the most serious matters. In the second half of 2015 we will launch an exercise to engage the profession in validating those criteria to aid understanding of our approach. We intend to learn from the practical application of these criteria and through engagement with those we regulate, the public and other stakeholders and evolve and improve them over time.

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- 13 We welcome the ICRS's annual report, and are grateful for its independent consideration of matters this year and helpful advice and recommendations. We look forward to continuing to work constructively with the ICRS this year on the complaints we receive.

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**Supporting information**

**Links to the Strategic Plan and / or Business Plan**

Strategic objectives 3 & 4

We will improve our operational performance and make fair and justifiable decisions promptly, effectively and efficiently.

We will work with our stakeholders to improve the quality of our services and their experience when using them.

**Recommendations: the Board is asked to:**

- a) **note the content of the recently published ICRS Annual Report 2014; and**
- b) **note the main areas the SRA intends to focus on in 2015 to improve its service to stakeholders (paragraphs 8 -11).**

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**Date** 18 February 2015

**Annex 1** Independent Complaint Resolution Service (ICRS) Annual Report  
January 2014 - December 2014

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**INDEPENDENT COMPLAINT RESOLUTION SERVICE**

**ANNUAL REPORT**

**FOR THE SOLICITORS REGULATION AUTHORITY**

**2014**

**Fair, Impartial, Effective**

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## **Introduction**

ICRS is the independent complaints review service for the SRA. This report outlines the activities of the office during the year and gives examples of some of the complaints referred to us. It also explains how ICRS recommendations can make a meaningful contribution to improving customer service and experience.

ICRS provides a fair and impartial service for the investigation of complaints made about the SRA. Our role is to review individual complaints and settle matters by agreement or adjudication. Where appropriate, we recommend that the SRA takes action to put things right for individuals or to improve the future quality of service. The SRA is committed to implementing our recommendations wherever practicable. In general, few complaints result from the large volume of work carried out by the SRA but when they do arise, and in those few cases where the SRA cannot resolve matters internally, ICRS can help to resolve disputes and bring matters to a close.

When we receive complaints our first task is to assess whether or not they meet the criteria for acceptance within the scheme. Our published literature makes it clear that we cannot accept complaints unless and until people have tried to settle matters through the SRA's internal complaints procedure. Despite this, people do ask us for help and advice before they have received the SRA's final response. Although we try to be helpful and refer them back to the SRA's Complaints Team, lost confidence in the SRA may make it difficult for SRA staff to give a response that they find satisfactory. Whilst some people have returned at a later date, we have had to disappoint others due to the limits of our remit. When complaints do not meet the general criteria for acceptance, perhaps because they are premature or not about service issues, we have to refuse them and this year regrettably we have had to turn away more people than we could help. Nevertheless, contact with us may still help people to understand what has happened and why and to take matters forward wherever possible.

This year as last, the majority of complaints were referred to ICRS from members of the public who have been left dissatisfied by the SRA's response to their initial complaints about solicitors. Often this is because they feel that disciplinary action was warranted and are let down when this has not been seen as necessary by the SRA. Complaints have also arisen because of the SRA's previous policy of not routinely informing people about the outcome of their assessment of referrals, which complainants feel displays a lack of openness and accountability. Whilst ICRS cannot assist people to obtain a change of regulatory decision, we can and do comment on the quality of communication with members of the public. We are pleased to note that the SRA is to change its approach to dealing with the public and will tell people what action will be taken in response to their complaints. In our view, this will serve to add to public confidence about SRA process in the future.

In 2014 there was an increase in the number of complaints received from members of the regulated community, characterised by those who are aggrieved by regulatory action the SRA has taken against them. Some solicitors have argued that the SRA has unfairly penalised them for what they believe to be minor infringements of the

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rules, when a more proportionate approach could have been taken. Others feel that they have not had a reasonable opportunity to put their case. ICRS cannot address regulatory decisions and, in particular, the role of adjudicators and the SDT, however we can offer a balanced and informed view of whether the SRA has followed procedures and lived up to the standards to be expected.

We are pleased to report a positive response to ICRS recommendations this year. The Complaints Team are keen to act as a catalyst for change and improvement and this is to their credit. This team needs to be at the heart of the SRA's endeavours to bring the customer perspective to its work and so we welcome the personal interest in this area of activity taken by the SRA's Chief Executive, Paul Philip.

During the year, we have carried out regular visits to the SRA's offices and met with managers and staff, both in update meetings and in our oversight visits, at which we examine internal processes in more depth and offer advice to the SRA about how it might improve the service it offers to the public and the profession. We recognise that the SRA is in a period of change and believe that this is the right time to encourage a customer service approach to its work. We hope to support the SRA in its efforts to be even more customer focused going forward.

Finally we thank Rachel Pillinger and her Team for their efforts on behalf of complainants and for the work they do to facilitate independent review.

Jodi Berg OBE

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### **The ICRS service**

ICRS aims to achieve impartial and fair settlement of complaints, and to make a positive difference for the SRA and the public now and in the future. If people are dissatisfied with the SRA's final response to their complaint, they can refer it to ICRS at no cost to them.

There are limitations on our role:

- ICRS can only investigate a complaint after the SRA's internal complaints process has been concluded
- we are only able to investigate complaints about the conduct of SRA for example about delay, inefficiency or unfairness
- we cannot investigate complaints about regulatory decisions
- we cannot investigate complaints against individual solicitors or organisations employing solicitors

Our remit is to look into complaints about maladministration, or how the SRA has handled things. This can include delay or discourtesy or allegations that the SRA has failed to follow its procedures or to treat customers properly and fairly. If the complainant wishes to refer their complaint to ICRS, they can do so via the SRA or directly. If the internal complaints process has been completed, we ask the SRA for the information so that we can consider the issues. Before embarking on a full review we always explore the possibility of resolution by agreement between the complainant and the SRA. If resolution is not possible, and the complaint falls within our remit, ICRS will carry out a review unless it appears, in all the circumstances, that this would be unreasonable or disproportionate.

Let me say from the outset that I think you have given a lot of time and effort to reviewing this whole matter and that I am impressed with the level of your understanding – Complainant

When a complaint is upheld or we identify other concerns, we will make recommendations to the SRA, either for specific redress, such as an apology, or for improvements to its systems and processes to reduce the risk of similar complaints arising in the future. Our aim is to bring matters to a final close for both the complainant and the SRA. We may not be able to give a complainant the result they want, but we always try to understand their perspective and ensure that they end up with a better understanding of what happened in their case and why.

Firstly, I wish to sincerely thank Mrs Berg for fully understanding each of the points that I have tried several years to explain too and get the appropriate reply from the SRA - Complainant

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ICRS is also able to offer people advice and assistance to help them to resolve matters informally or to explain how they can take forward their complaints in the appropriate way.

### **Feedback and complaints**

ICRS welcomes customer feedback and complaints as an essential part of helping us to improve our own service. All complaints are taken seriously and responded to quickly by an ICRS Reviewer who has not dealt with the complaint previously. We do our utmost to provide a good service and, where reviews are undertaken, to provide a comprehensive and just report. Not everyone is happy with the outcome of review, but it is heartening when people take the time and trouble to let us know that they are pleased with our service. This report includes some examples of this feedback.

I sincerely appreciate the considerable time and effort which you have devoted to your investigations of my complaints, for your thoroughness and for your close attention to important detail. You are to be commended and I thank you for preparing such a comprehensive, accurate, fair and well-balanced report – Complainant

### **ICRS Standards**

When people refer their complaints to ICRS they can expect to be treated with:

- **Respect:** We treat people as individuals and take their concerns seriously.
- **Courtesy:** We communicate in an open and friendly manner. We expect similar responses from people we deal with and do not accept abusive or inappropriate behaviour.
- **Honesty:** We are clear about the limitations of our role from the outset and will discuss the likely outcomes that can be achieved from review.
- **Objectivity:** Our Reviewers carefully consider all of the evidence provided by both the complainant and the SRA. We compare what happened against the SRA's own service standards.
- **Flexibility:** We recognise that a 'one size fits all' approach is inappropriate when dealing with individuals and tailor our service to meet people's legitimate needs.
- **Plain Language:** We try to communicate in language that the complainant is comfortable with to ensure our messages are understood.

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As members of the Ombudsman Association, ICRS Reviewers live up to its Principles of Good Complaint Handling in the course of its work. These are:

- Clarity of purpose:** A clear statement of the ICR's role, intent and scope
- Accessibility:** A service that is free, open and available to all who need it
- Flexibility:** Procedures, which are responsive to the needs of individuals
- Openness and transparency:** Clear and helpful information about our service
- Proportionality:** Process and resolution that is appropriate to the complaint
- Efficiency:** Meeting challenging standards of good administration
- Quality outcomes:** Complaint resolution leading to positive change 6

The SRA itself could well take a lesson (several lessons, in fact) from the professionalism with which you and the ICRS have dealt with my complaints about the conduct of the SRA. Dealing with ICRS has been a breath of fresh air –  
Complainant

## Facts & Figures

The following tables provide statistics on the number of referrals received during 2014, including information on how complaints were made, how the work progressed and the number of complaints closed in the year.

### Statistics

#### 1) Cases Received

Quarter	Complaint by Solicitor	Complaint by Consumer	Total Received
Jan-March	5	19	24
April-June	3	15	18
July-Sept	2	18	20
Oct-Dec	3	16	19
<b>Total</b>	<b>13</b>	<b>68</b>	<b>81</b>

There has again been some variation in the volume of complaints received each quarter, reflecting operations within the SRA. The volume of complaints this year has reduced by 15% compared with the previous year. It is likely that this reflects the continuing improved performance of the SRA in handling complaints to customer's satisfaction at the internal stages I and II.

Again, the majority of complaints received related to concerns of consumers of solicitors' services, rather than by solicitors unhappy with the regulatory procedures

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of the Authority. This year the proportion of complaints from solicitors remained low at 16%, though it was higher than the proportion in 2013 (12%). While this would appear to be a positive response to the SRA's regulatory approach, our caseload does raise issues about how some members of the legal profession feel they are treated by the Authority and their confidence in the internal complaint process.

## 2) Cases Closed after Initial Review

Quarter	Advice and Assistance (not shown in cases received table)	Not Pursued - Regulatory Decision and other reasons	Total
Jan-March	14	17	31
April-June	19	10	29
July-Sept	13	15	28
Oct-Dec	23	11	34
<b>Total</b>	<b>69</b>	<b>53</b>	<b>122</b>

This year, as in previous years, ICRS has taken a decision to close a number of cases after initial review. This situation usually arises because the case has been presented prematurely, or potential complainants were not clear or aware of the processes they need to go through in relation to the internal SRA complaints procedure. It can also reflect complainant's difficulties in getting satisfaction for their concerns from the SRA as they go through that internal process. ICRS also receives a number of complaints that fall outside of our remit, relating mainly to regulatory decisions. In these instances, cases are closed after an initial review.

This type of complaint continues to be a significant and time consuming element of the work of ICRS, which is not always reflected in our published outcomes. Cases can involve protracted contact with the complainant and the relevant departments within the SRA. Nevertheless, our responses to complainants reflect greater knowledge and expertise within ICRS in relation to the way in which the SRA works and its own internal procedures, and also increased clarity as to what we can do to help complainants.

It is interesting to note that there has been significant uplift in the number of advice and assistance cases received this year. This would indicate that there is a need for immediate information to be provided to those people who are unhappy with the services provided by the SRA. ICRS are keen to encourage the SRA to act speedily to offer guidance, whilst recognising that it is not always easy to recognise when complaints are being raised.

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### 3) Cases Closed after Investigation

Quarter	No.of Cases	Complaint Issues	Upheld	Partially Upheld	Not Upheld
Jan-March	7	24	3	0	21
April-June	8	19	6	3	10
July-Sept	6	13	4	0	9
Oct-Dec	5	15	2	3	10
<b>Total this year</b>	<b>26</b>	<b>71</b>	<b>15</b>	<b>6</b>	<b>50</b>
<b>Total last year</b>	<b>34</b>	<b>80</b>	<b>6</b>	<b>9</b>	<b>65</b>

As in previous years, ICRS reviewers conduct detailed investigation into a number of complaints submitted for independent review that fall within the remit of the reviewers. This year 26 complaints were investigated fully. Within these complaints 71 separate elements of complaint were included. Of these elements only 21 (27%) were fully or partially upheld. Whilst this is higher than last year, it reflects a more complex caseload and we do not believe that it indicates any reduction in standards in the way in which SRA handles complaints internally at both stages.

### Costs

The cost of the service provided by ICRS during 2014 was £60,000. This inclusive figure covered complaint investigation, the provision of general advice and assistance to complainants and regular overview visits to the SRA, to assess and report on the operation of the complaints policy. We continue to keep administrative costs to an absolute minimum, and focus resources on complaint investigation and overview functions. The cost for 2014 was once again a significant reduction on the figure for the previous year and reflected our determination to deliver value for money.

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## **Key Themes**

### **a) Communication**

As in all our previous reports, the key theme that has again emerged this year is one of communication. This continues to be an area of concern to customers of the SRA, both members of the public as well as members of the legal profession. An analysis of the complaints reviewed in this period would indicate that issues of poor communication remain at the core of customer dissatisfaction. These issues of dissatisfaction result from delays in the time taken to respond to customers, and the content of telephone calls and emails.

The tone and accuracy of some correspondence has been identified as an area for revision, and in one instance the way in which a restriction in communication was handled caused concern.

### **b) Members of the public who report misconduct**

There continues to be some concern about the way in which the SRA's regulatory role works. In particular, those members of the public who have reported alleged misconduct on the part of solicitors to the SRA have continued to express dissatisfaction at the lack of information provided to them in relation to any ongoing investigation and the outcomes of such investigations. This is an issue that has been raised in our reports and discussions with the SRA and we were pleased to learn about a recent change of policy, by which the SRA will provide some information for such third party informants. We wait to see the effect of this in future reviews and will note with particular interest the tone and content of letters sent from the SRA in relation to these complaints. However, whilst the SRA's website no longer states that the SRA will not keep in touch with people, we note that this change of approach has not yet been made explicit, although this is referred to in correspondence on receipt of referrals

At the core of this issue is confusion in the minds of the public between two quite separate procedures, the handling of complaints and the reports of misconduct. This has led some individuals who have reported allegations of misconduct to the SRA having unrealistic expectations with regard to the level of communication the SRA could and would provide to them in relation to the progress of any investigation. Once the new policy has been established, it would be useful for the SRA to review its communication on the subject.

## **CASE STUDY**

Mr A complained about a firm of solicitors who had acted for him, saying that they had acted dishonestly and presented a high risk. He mentioned also that he suffered from a disability. The SRA looked at the available evidence but decided that it did not demonstrate fraud or dishonesty. Mr A then complained of prejudice and discrimination against him as a member of the public and a disabled person, expressing the view that the SRA had judged him and failed to take appropriate action against the firm.

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The SRA rejected Mr A's complaints and he referred the matter to ICRS. Our reviewer telephoned Mr A to discuss the complaint and he explained that he had been expecting the SRA to involve him in the investigation process and that he had been very disappointed that this had not happened. He had been left with the feeling that the SRA did not respect him.

We concluded that the SRA had considered the complaint carefully, and that Mr A's dissatisfaction was largely the result of the fact that he had unrealistic expectations of the SRA, and failed to appreciate the limits of its role and responsibilities as regulator. We did not find any evidence of disrespect or discrimination by the SRA. Our only observations were that the SRA did not appear to have taken the initiative in offering reasonable adjustments, and that Mr A did not appear to have had the opportunity to discuss his concerns with a member of the Complaints Team. We recommended that the SRA should acknowledge that a telephone discussion might have helped reassure him that his concerns were understood and that the SRA should consider whether telephone discussions should be offered as a regular part of the complaints process, especially where there is reason to believe that the complainant may have a disability.

An area that has generated some confusion and frustration on the part of complainants in the past is the misunderstanding by the public of the way in which risk-based regulation operates. For any allegation to be investigated fully, the SRA undertakes a risk assessment. This may result in a decision being taken by the SRA that no further action will be taken. In this situation, providing an explanation of the processes to aggrieved complainants can frequently become very difficult. Whilst the SRA has made significant progress in doing this, it remains difficult to reassure complainants of the appropriateness of the action taken in any individual case.

### **CASE STUDY**

Mr B complained to the SRA about a firm of solicitors who had acted for him, saying that they had, through negligence and failing to comply with the SRA's Principles, caused him to lose a court case.

ICRS found that the SRA had dealt with the matter in accordance with the procedure published on its website, making an assessment of risk and, based on this, a decision not to investigate further.

When Mr B complained to the SRA that no action had been taken against the firm, the SRA explained that it had decided that further investigation was not justified and explained in some detail the reasons for this decision. We recognised that Mr B disagreed strongly with the SRA's decision, but were satisfied that the SRA had been entitled to make the decision it had, and that it did not have a duty to satisfy Mr B that its decision had been appropriate.

Mr B also raised concern that the SRA had failed to ask about special needs, and that there was no specific question about special needs and disability on the

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interactive report form published on the SRA's website. Both the SRA and ICRS recognised that this was fair comment. However it was not clear from the file that the SRA planned to take specific action to address the issue. ICRS therefore recommended that the SRA should consider whether its report form should be modified to request information about impaired capacity or vulnerability. We are pleased to note that the report form has subsequently been amended.

**c) Authorisation Process**

The process of authorisation by the Authority has again come under scrutiny in this period. In particular, the admission to the Solicitors Roll and the necessity of using an online process has raised some concerns. ICRS recommended that the SRA give serious consideration to providing a more flexible response, including the acceptance of alternative payment methods, to those people who state a strong preference for this. After careful consideration the SRA will not be implementing this recommendation because of the potential effect on the efficiency of process. However, it will provide such a service to those customers who because of disability require an alternative mechanism for making payment. While ICRS accept the Authority's right to respond as it chooses to recommendations, it would suggest that greater clarity about the limitations of the payment process should be made available to the regulated community.

**d) Discrimination on the treatment of vulnerable people**

A specific element of the remit of the ICRS review is listed as the individual investigation of any complaints of alleged discrimination on the part of the SRA. This is reviewed separately during all independent reviews of complaints and during the oversight reviews. Again, as in previous years we have received very few complaints of this nature. We would like to compliment the SRA for this. We are aware from our work that the SRA continues to take its Equality and Diversity responsibilities seriously and makes every effort to ensure that best practice is maintained at all times. During this year one complaint review has led to a recommendation that the Authority amends its report form, to ask specifically for information about impaired capacity or vulnerability. The SRA agreed to take forward this suggestion, and we are pleased to record that this has now been done.

**e) SRA Complaints Process**

One area that continues to give rise to complaints reviewed by ICRS relates to the way in which the internal complaints procedure of the SRA works. During the time that ICRS has provided the service, we have seen many changes and improvements in the way the system works.

We have been complimentary about the improved quality of responses, at both stage I and stage II of the internal complaint procedure. Despite improvement it is the case that some people remain confused about how the system works. Following various changes of policy within the SRA during the current year, it would be helpful to conduct a review of its communication material in relation to complaint handling during the year ahead and make appropriate changes to reflect current practice. ICRS would be happy to assist in conducting this review.

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### **CASE STUDY**

Another member of public who complained about the SRA's response to his complaint about a firm of solicitors was Mr C. He had also made a complaint to the Legal Ombudsman who had found shortcomings in the service provided by the firm and made recommendations for improvement. The SRA contacted the firm to check what changes had been taken in response to the Ombudsman's recommendations but decided to take no further regulatory action. Mr C strongly disagreed with the SRA's decision and with the explanation the SRA provided in response to his complaint. He was also very aggrieved that the SRA had misplaced CDs that he had sent which contained evidence to support his allegations against the firm.

ICRS was satisfied that the SRA had considered the complaint in accordance with its advertised procedure and had informed Mr C of the outcome. While Mr C firmly believed that the SRA had a duty to satisfy him that its decision had been appropriate, we concluded that this was based on a misunderstanding of the SRA's role as regulator. We were, however, concerned that receipt of the CDs had not been recorded by the SRA, and that this had later caused confusion about whether they had been received or not. While recognising that items received will from time to time go missing in a large organisation like the SRA we recommended that the SRA should apologise for the loss and consider strengthening the procedure for recording such enclosures in the case record.

#### **f) Complaints by Solicitors**

As already mentioned, there was a slight increase in the proportion of complaints received from solicitors this year, however this continues to be much lower than those from members of the general public. Our referrals indicate that the relationship between the SRA and some members of its regulated community continues to throw up challenges.

### **CASE STUDY**

Ms D, a solicitor, complained that the SRA had threatened to take disciplinary action against her because she had not complied with the SRA's requirement to provide diversity data for her firm. Ms D was a sole practitioner and had understood from previous conversations with SRA staff that she was exempt from the data collection exercise because she had already provided her own personal diversity data. She said that she felt that the threat of disciplinary action had been very heavy-handed and that she knew of other sole practitioners who had felt the same way. In response to Ms D's complaint the SRA accepted that the guidance for sole practitioners could have been better and also that it could have done more to clarify the situation for Ms D. It did not accept that its approach had been heavy handed, pointing out that it recognised this had been the first time that the exercise had been carried out, and that it had continued to offer support which had ultimately enabled Ms D to comply with the requirement, but maintained that the exercise was required by the Legal Services Board and that there came a time when enforcement action had to be considered.

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ICRS appreciated why Ms D had found the threat of disciplinary action heavy-handed, but also recognised that the SRA was under a duty to ensure that the data was collected. We recognised that it had been extremely irritating for Ms D to have had to spend such a long time trying to get an answer to what appeared to be a very simple question and that this should not have happened. We were satisfied however that the SRA had taken this point on board as a result of Ms D's complaint and had taken steps to avoid similar problems in future by improving its guidance for sole practitioners.

### **CASE STUDY**

Mr E, who was also a sole practitioner, complained about the way the SRA had handled the fact that he had not filled in the required form to nominate a Compliance Officer for Legal Practice (COLP) and a Compliance Officer for Finance and Accounting (COFA) for the firm. The SRA took disciplinary action in respect of Mr E's failure to comply promptly with its requirement and the matter was referred to an Adjudicator who found that there had been a breach of Regulations and issued a warning regarding future conduct.

Mr E complained, amongst other things, that he had provided the information – though not in the form prescribed – and that it had been quite inappropriate to refer the matter to the Adjudicator. He felt that the SRA had been disproportionately harsh and had applied to his situation standards that it had failed to observe itself. ICRS has no power to review regulatory decisions made by the SRA so our review focused on the way in which matters had been handled from a procedural and customer service point of view.

In reaching our conclusions, ICRS took into account the SRA's procedures for dealing with complaints about solicitors received from members of the public. These are risk assessed to help the SRA to decide whether the issues raised present a sufficiently serious risk to the public to justify regulatory action. ICRS recognised that the risk assessment process did not necessarily apply to regulatory action for non-compliance with SRA requirements, but noted that the principle of proportionality was one of the basic principles of regulation set out in the Legal Services Act 2007. ICRS also recognised that it was reasonable for the SRA to want to obtain widespread compliance with its new system, and that the decision to take disciplinary action for non-compliance had been taken by the SRA Board. However it did appear that the SRA could have given a little more support to Mr E, noting his personal difficulties, to help him comply with the requirement. We were also concerned that there was no evidence in the file that the issue of proportionality had been considered before disciplinary action was taken. We recommended that the SRA should consider whether risk and proportionality issues are systematically considered in all cases where disciplinary investigation is being considered.

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**g) Administration of the Compensation Fund**

The SRA Compensation Fund provides compensation as a last resort, for example when a firm has misappropriated a client's money and the loss is not covered by insurance. This year we received a number of complaints from people who had applied for compensation and were dissatisfied with the way in which their claims had been handled. In some instances it was the way in which information had been provided to the individual, both in terms of the timescales and presentation.

Recommendations made by ICRS have been responded to and taken on board by the SRA. We will be monitoring this aspect of their work during the year ahead.

**CASE STUDY**

Mr F complained about the way in which the SRA had dealt with his claim for a payment out of the Compensation Fund. The claim had been assessed initially by an SRA caseworker, and the caseworker had submitted a report for consideration by an independent Adjudicator. Mr F was dissatisfied as he received the impression that the decision on payment had been made by the SRA caseworker rather than by the independent adjudicator. Following a full review ICRS was satisfied that proper procedure had in fact been followed and that the decision had been made by the independent Adjudicator. We were concerned, however, at the way in which the Adjudicator's decision was presented - pasted into a letter from the SRA caseworker. We could understand, in the circumstances, why Mr F had concluded that it was the caseworker who had actually made the decision. We recommended that the SRA should apologise to Mr F for the confusion. The SRA had already acted to reduce the risk of similar problems in future by abandoning the practice of pasting Adjudicator's decisions into letters. We welcomed this change and recommended that whenever practicable the applicant should receive a full copy of the Adjudicator's decision.

**CASE STUDY**

In another case concerning a Compensation Fund application, Mr G complained about serious delays in processing his application, which was first made in 2011, following an intervention by the SRA to close down Mr G's then solicitors. The claim was not finally dealt with until 2014, when a substantial payment from the Fund was approved. Mr G also raised concerns about a lack of clarity from the start about how his claim would be handled.

Our review found that the SRA had consistently failed to give the application appropriate priority, and that in spite of Mr G's repeated enquiries about progress, each step of the process had been painfully slow. We also upheld Mr G's complaint that the SRA failed to manage Mr G's expectations by providing information about the stages of the investigation process and about the documents that he would be required to provide to support his claim.

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The SRA Complaints Team, as a result of its internal investigation, upheld the complaint of delay, apologised and offered a special payment in recognition of the avoidable stress and inconvenience Mr G had experienced. ICRS was satisfied that this investigation had been thorough, and had accurately identified the main failures in the processing of the application. We had no power to comment on the decision on the amount of compensation but found that the special payment offered in respect of the distress and inconvenience caused to Mr G demonstrated appropriate acceptance that the SRA had seriously mishandled the claim. We recommended, however, that the apology already offered by the Complaints Team should be endorsed by a senior manager in order to reinforce the SRA's recognition of the seriousness of the administrative shortcomings in this case.

### **Oversight Reviews & Reports**

As part of our role in reviewing complaint handling within the SRA, ICRS carries out a general oversight review during each year. Here internal SRA complaint files are reviewed in order to monitor the quality of the complaint handling within the organisation and to identify any areas of concern.

During this year two reviews were conducted, one in May 2014 and a second in November 2014. Reports of each review, together with some recommendations, were presented to senior management within the SRA. Each review was conducted in two parts:

- A review of the complaints where the response had been provided at stage I of the internal complaint procedure.
- A review of additional cases which had been at stage I and had progressed to stage II of the internal complaint procedure.

Each file was examined chronologically and reviewed thoroughly. From each file a substantive letter was selected and examined for accurate grammar and language. Each review is conducted in consultation with the SRA, reflecting key themes at that particular time. Concerns identified in an individual complaint review by ICRS are also followed up during the oversight review. This continues to provide a focused audit, targeting areas where concerns have been expressed in the past, or where a change in circumstances or policy has generated an increase in the volume of complaints. The areas reviewed this year were chosen from across the SRA's business.

There continues to be significant improvement in the standard of the stage I replies provided by departmental managers. It is encouraging to note that this improvement has now been maintained for two years. There is also evidence of consistent signposting to stage II, an approach encouraged by ICRS. There is still evidence that some standard letters and responses continue to be used inappropriately. However, when this occurs efforts are more regularly made to tailor the standard response to

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reflect more accurately the comments and needs of the individual complainant. This approach is to be encouraged.

The quality of stage II replies continues to be of an extremely high standard and there is evidence of good formal investigation and follow-up by the complaints team. Where the outcome is not favourable to the complainant, the quality of the explanation regarding the limits and the needs of regulation are provided, clearly and empathetically. There continues to be evidence that stage II replies provide the organisation with an opportunity to show some flexibility, encouraging an element of advocacy on some occasions. This results in the complaint handler progressing a complaint on behalf of the complainant, internally, within the organisation, when this is practicable. This approach should be encouraged as it adds value to the complaint process.

As part of this oversight review all allegations of discrimination received were reviewed. In this year, three files were reviewed following allegations of discrimination. In each case no evidence of discrimination on the part of the SRA was found.

Key themes emerging from the oversight review included:

- Difficulty getting through to the correct department.
- The accessibility and quality of the information available on the website.
- The use of automated email and telephone recordings.
- Internal communication between different departments causing confusion and delay.
- Confusion regarding relative responsibility of SRA and LeO.

In the May review, ICRS was requested by the SRA to provide an auxiliary review of a number of case files which did not specifically relate to service complaint issues. This reflected a focus on the quality of regulatory communications in the SRA. In particular, ICRS was asked to review individual case files and consider whether:

- The content was appropriate for the individual.
- There was appropriate tailoring of standard letters when used.
- The appropriate tone to the correspondence was used.
- There was clarity and accuracy in the messages sent.

There was evidence of the elimination of jargon and the use of plain English.

The quality of document management on the 25 case files reviewed was found to be of a generally high standard and presented chronologically. Decisions made were clearly stated and, where possible, reasons for these decisions were given. Where relevant, evidence supporting the decision was also recorded. In most instances the language used was clear and concise and a number of examples of plain English were evident throughout. There was evidence that correspondence had been tailored

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to the designated target audience, and in some instances the appropriate tone was reflected.

Thank you for dealing with my matter so efficiently – Complainant

### **Learning From Complaints**

During this year we have again made a number of systemic recommendations to which SRA have responded immediately. In many instances the SRA confirms that the recommendations can be implemented quickly and regularly provide us with an update on what action has been taken. On other occasions, while recognising the validity of the recommendation, the SRA may take longer to implement them, or not be able to do so because of operational limitations. When this is the case, comprehensive reasons are given.

We are pleased to note that the SRA's Complaints Team is keen to replicate this process internally and raises at senior level systemic issues of value to the organisation as a whole, drawn from the reviews it carries out. This supports the impetus for change and improvement within the SRA. Examples of recommendations leading to change include:

- The Identification of inaccuracies on the SRA's website and of improvements that can be made to improve its content, for example in relation to professional indemnity; statutory trusts and claims management;
- The need for changes to procedure, for example the Claims Management department agreed to clarify in reports that adjudicator's are not bound by a caseworker's recommendations, to help assure applicants that decisions taken by adjudicators are independent. This accords with practice in other SRA departments.
- The need for units to ensure timescales are provided when matters pass to Adjudication.

This year ICRS recommendations covered a wide range of issues, in particular in relation to overall communication issues, the handling of caseworker absences, and the provision of information supporting decisions.

We will continue to monitor the SRA's response to our recommendations in the coming year.