

**SRA BOARD**  
20 January 2016

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**Independent Complaint Resolution Service (ICRS) Annual Report  
1 January 2015 - 30 September 2015**

**Purpose**

- 1 To present the Board with the Independent Complaint Resolution Service's (ICRS) annual report. The report provides an assessment of how we handled complaints about our service in 2015 and key themes identified from complaints.

**Recommendations**

- 2 The Board is asked to:
  - a) note the content of the recently published ICRS Annual Report 2015 at Annex 1; and
  - b) note the main areas we intend to focus on in 2016, in order to improve our service (paragraphs 11- 13).

**If you have any questions about this paper, please contact Jane Malcolm, Executive Director, External Affairs, [Jane.Malcolm@sra.org.uk](mailto:Jane.Malcolm@sra.org.uk) or 0121 329 6091.**

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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, to help ensure that members of the public and the profession have confidence that complaints are being handled fairly and transparently. The Independent Complaints Resolution Service (ICRS) has provided that external scrutiny, and its term came to an end on 30 September 2015. We felt it was important to retain an element of independent oversight, and, after a competitive tender process, we have appointed Ombudsman Services Limited to undertake that role.
  
- 4 We have 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 Corporate Complaints Team. If complainants remain unhappy they can request an independent review at stage 3. Until 1 October 2015 this was provided by the ICRS.
  
- 5 As mentioned in the Annual Report, we made the decision during 2015 to temporarily transfer certain Stage 1 complaints directly to our Corporate Complaints Team. These were complaints about regulatory decisions not to pursue concerns raised with us about solicitors. This initially led to an increase in referrals to the ICRS. These complaints will be transferring back to the operational teams this month.

**Complaint Numbers and Improvements made**

- 6 We dealt with 10% fewer complaints overall at stages 1 and 2 of our complaints process in 2015 compared to 2014. This is the second consecutive year that complaint numbers have decreased.

	Stage 1	Stage 2	Stage 3
2013	1055	260	34*
2014	931	278	26*
2015	855	232	25*

\* 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. Whilst the new independent reviewer (Ombudsman Services Limited) has reviews in progress, it has not dealt with any full reviews at the time of writing this paper.

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- 7 It is encouraging to see that the independent reviewer continues to commend us for taking a responsive approach to complaints (report Introduction). 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 regulator and importantly, enable us to identify actions to improve.
- 8 The biggest single source of dissatisfaction from consumers in previous years has been not informing complainants about the outcome of their complaints about solicitors. We changed this in November 2014 and have this year embedded our new approach, which provides complainants with information about the regulatory steps we might take, and the outcome of a complaint about a solicitor. We have not seen a notable reduction of complaints in this area however, rather we have seen a shift in the nature of complaints, from concerns about transparency, to concerns about our decisions in respect of complaints about solicitors. Even so, this was an important and positive step although the increased openness and communication may have had an impact in relation to those complainants who chose to pursue their concerns with the ICRS
- 9 Our focus for 2016 is to continue to improve and refine our communication when we decide we will not take a complaint about a solicitor forward. It is not always easy to get this communication right. We value and rely upon information that people take the time to provide to us, but for a number of reasons not every complaint progresses to full investigation: there may be insufficient evidence of fitness to practise issues to make it proportionate to launch an investigation; there may be more appropriate bodies to help, such as the Legal Ombudsman or court; or there may have been technical breaches of our rules that do not warrant our intervention. We have to balance carefully being a proportionate modern regulator that is not unduly burdensome, with ensuring the public have confidence that we tackle the right things, at the right time. But we know we can do better and will continue to strengthen our communications in this area in 2016.
- 10 Of note also was a decline in the number of complaints made in relation to those regulatory matters in which we need to communicate with the profession as a whole for example, annual PC renewal, Professional Indemnity arrangements and annual diversity data collection. This reflects work in relation to improvements to mySRA but also more careful consideration both to our approach to these regulatory activities and the drafting of bulk communications.
- 11 There are two areas of note that we will continue to focus on in 2016 to help improve our service and address some of the themes identified by us and the ICRS.

**Our Communication**

- 12 We identified communication as a key theme in the complaints that were made about our service in 2014, particularly in relation to the tone and clarity of our

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communications. Some notable improvements were made last year in relation to our communications on our consultations (A Question of Trust); bulk regulatory communications (PC Renewal and firm diversity data collection); and our communication with complainants. There is more to do, however, to ensure all our communications meet high standards and are clear, transparent and credible.

- 13 In January 2016 we launch our new '*Tone of Voice*', the culmination of work undertaken last year to transform our communications. Changes have been made to many of our template letters; guidelines developed for staff; and we will conduct a root and branch review of our website upon which so many rely, but which we recognise is not as user friendly and helpful as it could be. Changes will not happen overnight, and we recognise it will take time to stop writing in our old ways but progress will be monitored through regular quality reviews throughout 2016.

**Recommendation: to note the main areas we intend to focus on in 2016, in order to improve our service.**

**Operational excellence**

- 14 We committed to make 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. We have put in place the necessary foundations upon which we can build and there have been some notable improvements in performance (and in particular timeliness) across all our main operational areas. Again, however, our work continues to ensure we deliver the needs of consumers and the modern profession.
- 15 We welcome the ICRS's final report and we thank the ICRS for its independent consideration of matters, critical eye, helpful advice and recommendations during its term. It has been instrumental in helping us improve not only the way we deal with complaints about our service but in identifying the root causes of complaints. We look forward to continuing this constructive dialogue with our new independent reviewer, the Ombudsman Services Limited, which started work in October 2015.

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**Supporting information**

16 None

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

17 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 -

**Author** Rachel Pillinger

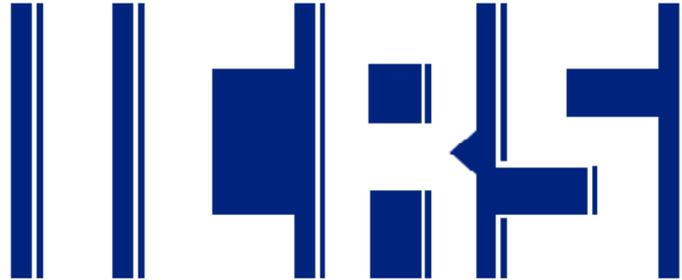
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**Date** 23 December 2015

**Annex 1** Independent Complaint Resolution Service (ICRS) Annual Report 1 January 2015 - 30 September 2014

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**INDEPENDENT COMPLAINT RESOLUTION SERVICE**

**ANNUAL REPORT**

**FOR THE SOLICITORS REGULATION AUTHORITY**

**2015**

**Fair, Impartial, Effective**

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## **ICRS Annual Report to the SRA 1 January to 30 September 2015**

### **Introduction**

ICRS has been the independent complaints review service for the SRA since 2010. As our term of office has terminated this will be the last annual report we issue to outline the activities of the office during the last year. In fact, this report covers only the 9 months to September 2015. As in past years it gives information about complaints referred to ICRS and comments on how SRA has responded to recommendations aimed at putting things right for individuals and at making a positive difference for the SRA customer service and for user experience.

It is right to say that the SRA receives few complaints in relation to the large volume of work it carries out and its ongoing interactions with members of the profession and the public. Most people are satisfied that the SRA does a good job and recognise the efforts being made by the SRA to become a regulator suited to the 21<sup>st</sup> century.

Despite this, this year there was a marked increase in the number of referrals we received. Most of these came from members of the public who had complained about actions by solicitors which they felt warranted disciplinary action by the SRA. When the SRA did not agree with this, people were disappointed and often angered that solicitors had 'got away with it' and felt that the SRA was 'on the side of solicitors'.

In many of these cases we could not help. This was because the complaints were solely about decisions made by the SRA as regulator and so did not fall within our remit. We have been heartened to note that in the last few months, the SRA has been more robust when signposting people to ICRS – telling them clearly what we can and cannot do, in order to manage expectations appropriately. This has resulted in a slowing down of referrals which augers well for the future.

The SRA also decided this year to pass complaints of this type through to the Complaints Team for first response rather than attempt to send out an earlier response from the local team leader responsible for reaching a regulatory decision. Whilst this has been a pragmatic answer in terms of the administration of complaints, it has taken the issues of concern a step further away from where they arose and removed responsibility for dealing with problems that arise from the local team. We are aware that the SRA's complaint response is the subject of ongoing review and we would encourage the SRA to concentrate efforts on equipping front line teams with the skills to respond more proactively to complaints.

The complaints from members of the public which we were able to accept for review led us to make a number of recommendations aimed at helping the SRA communicate better with individuals – not just about why many complaints about solicitors do not lead to disciplinary action, but also about the process for applying to the compensation fund, the handling of files after a firm has closed, and enquiries about indemnity insurance. The SRA has responded very positively to our

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recommendations and has been trying hard to up its game in relation to communication and complaint response.

Complaints we have received from solicitors who are subject to disciplinary action suggest that on occasion the proportionate response taken when a member of the public reports a solicitor, is not always applied to issues of concern that arise directly between solicitors and their regulator, for example when there are minor infringements of the rules. Moreover, the SRA's disciplinary response can be somewhat rigid, due to current procedure, and may not have the flexibility to deal effectively with such issues in a less resource intensive manner. These are matters that the SRA will need to consider as it moves forward to meet the needs of a modern profession.

As always, this year we have carried out an overview visit which is aimed at helping the SRA to address complaint handling issues proactively and tighten up internal procedures. These have proved a valuable way of providing hands-on 'consultancy' to the SRA, which has supported the independent complaint process.

As far as the quality of complaint handling is concerned, we commend the SRA and in particular its Complaints Team for the thorough and painstaking way in which it deals with people's concerns. We are pleased to note that the SRA's staff feel empowered to point out where mistakes have been made, to offer apologies and to try to put things right. Moreover, over the last few years it has recognised the pivotal part that complaints handlers can play in recognising where service improvements can be made, and trying to make this difference before complaints are referred to independent review. This approach is embedded in the way that the Complaints Team deals with service users, who are to be congratulated for their efforts on behalf of complainants and for the work they do to facilitate independent review. This is encouraged and supported by the SRA's Chief Executive who gives leadership from the top as to the importance and value of complaints.

This will be our last annual review for the SRA and we are pleased to note that the SRA has appointed a new service provider to carry on with this important service. It has been a privilege to work with the SRA during our term of office. We are confident that the SRA is a more confident and competent organisation in respect of its complaint handling now than in earlier years and take pride in the small part that we have played in this achievement.

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 complainants wish 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.

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.

### **Facts and Figures January - September 2015 (2014 whole year figures in brackets)**

#### **1. Total number of contacts**

184 (2014: 122)

There was a significant increase in the number of people contacting ICRS, especially during the first six months of 2015, but in the main ICRS was unable to assist. In some cases this was because the complaint had not been fully considered under the

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SRA's complaints process. In others (see 2 below) the referral raised issues that were outside our remit.

**2. Complaint referrals**

118 (2014: 81)

**Referrals from solicitors**

11 (2014: 13)

**Referrals from consumers**

107 (2014: 68)

These were complaints that had been fully considered by the SRA, and referred to ICRS for review at stage 3 of the complaints procedure. Most, however, were from consumers who were dissatisfied with the SRA's response to a complaint about a solicitor, and the majority of these cases ICRS was unable to help because the customer's dissatisfaction focused on the SRA's regulatory decision rather than the way in which matters had been handled.

**3. Cases Reviewed**

25 (2014: 26)

**Complaint by solicitor**

7 (28%) (2014:10:38%)

**Complaint by consumer**

18 (72%) (2014: 16: 61%)

The total number of cases in which we carried out a full review during the first 9 months of 2015 was almost the same as the number reviewed during the whole of 2014, reflecting the higher overall contact and referral rates during 2015. The proportion of solicitor complaints reviewed, however, decreased.

**4. Complaint issues**

76 (2014:71)

Upheld: 12 = 16%  
(2014: 15: 21%)

Partially upheld: 4 = 5%  
(2014 : 6 : 8%)

Not upheld: 60 = 79%  
(2014: 50 : 70%)

The proportion of complaints upheld or partially upheld decreased, though given the relatively small numbers of cases and issues it is difficult to draw any useful conclusions from this shift. The issues raised were wide-ranging (see 6 below) and led ICRS to make systemic recommendations and suggestions regarding several aspects of the SRA's procedures and published information.

**5. Key themes and recommendations**

Of the 25 complaints reviewed, 9 were about the SRA's handling of a complaint from a consumer about a solicitor. In general we found that the SRA had responded appropriately and provided acceptable reasons for its decisions. We did, however, identify a real risk that members of the public who bring complaints to the SRA will

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see the SRA as simply preferring the word of solicitors, and we recommended that the SRA should consider ways of addressing this risk – perhaps by sharing some of its detailed assessments of complaints, by publishing examples of serious misconduct, or by putting in place arrangements for decision reviews.

Other issues raised by consumers included the SRA's handling of compensation fund applications, the arrangements for dealing with files following intervention into a firm, the provision of information about firms' indemnity insurance and the tracking of mail received by the SRA. We were able to identify opportunities for improvement in all these areas and we recommended that the SRA should review a number of aspects of practice and procedure:

- The procedure for dealing with compensation fund claims to avoid any perception of bias
- The information on the SRA's website about the closure of firms
- The published information on the SRA's policy on providing information on indemnity insurers
- The systems for tracking mail received.

Turning to complaints from solicitors, two raised issues of disability discrimination. We investigated carefully and did not find evidence of discrimination. We recommended, however, that the SRA should consider being more pro-active in asking for additional information to help it respond to disability-related concerns. Other solicitor complaints were about procedures for investigation and intervention and the handling of authorisation and practising certificate applications. For the most part we found that the SRA had handled matters appropriately, and in accordance with public procedures. Our only systemic recommendation was that the SRA should consider guidance for staff on when to provide updates on the authorisation process.

## **6. SRA response to recommendations**

The SRA has, as in previous years, responded very positively to our recommendations.

## **7. Cost**

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 an overview visit to the SRA, to assess and report on the operation of the complaints policy.