

The logo for Ombudsman Services features a stylized 'O' composed of four colored segments: blue, green, orange, and purple. To the right of the 'O', the words 'Ombudsman' and 'Services' are stacked in a grey, sans-serif font.

Ombudsman
Services

Good for consumers – Good for business

**SRA
Independent
Reviewer**

Annual Report

October 2015 – October 2016

Introduction

People turn to solicitors for help at important points of their lives. They expect solicitors to be professional, honest and act with integrity. The Solicitors Regulation Authority (SRA) is there to protect the public by ensuring that solicitors meet high standards and by acting when risks are identified.

The SRA is committed to providing a high standard of service, both to members of the profession and to members of the public. When an individual has concerns about the level of service they have received from the SRA, they are entitled to make a complaint. If, after following the SRA's Complaint Handling Procedure, they remain dissatisfied, they are entitled to ask for their complaint to be reviewed by the Independent Reviewer.

This is the first annual report of the Independent Reviewer published by Ombudsman Services. We took over the role of Independent Reviewer from the Independent Complaints Resolution Service on 26 October 2015.

In this report, we have provided information about the complaints we have received and the decisions we have made up to 31 October 2016.

Ombudsman Services

Ombudsman Services is the leading provider of alternative dispute resolution (ADR) for private and regulated sectors throughout the UK. We provide independent redress schemes across a variety of industries, including ombudsman schemes for some high profile regulated sectors such as energy, communications, property sales and for professional trade bodies such as the Royal Institution of Chartered Surveyors (RICS).

Team setup

Jonathan Lenton leads the handling of complaints about the SRA at Ombudsman Services. Jonathan is an Ombudsman with 15 years of experience in the handling of complex disputes and is an accredited mediator. He has helped consumers and businesses resolve complaints across a number of sectors, including finance, communications, energy and property. Jonathan has lead responsibility for decision-making and decision quality. He heads a small team of investigation officers from various backgrounds with many years of dispute resolution experience.

Executive Summary

I am pleased to introduce my first annual report since Ombudsman Services took over the role of Independent Reviewer from the Independent Complaints Resolution Service in October 2015.

In this report, we set out how we handle complaints and information about the nature of the enquiries we have received, the complaints we have accepted for investigation and the decisions we have made. In addition to information about complaints, we have also included findings from our half-yearly complaint process audits.

At this early stage of our involvement with the SRA, it would be unfair for us to try to draw too many conclusions about the way in which the SRA is handling complaints. Nonetheless, our initial impressions are favourable. We have confidence that the SRA is, in the main, handling complaints fairly and effectively. This is demonstrated by the fact that we have received a relatively small number of complaints about the service offered by the SRA and, of the complaints we have investigated, only a small proportion have been upheld. During our complaint process audits, we have found much to applaud the SRA for.

Taking account of the SRA's important role as a regulator, the number of reports it receives about solicitors and its power to take enforcement action against members of the profession, it would have been a surprise if we had found nothing that the SRA could do better. Inevitably, as with any large organisation, sometimes the SRA makes mistakes. We have been pleased to find that the SRA is willing to acknowledge when things have gone wrong, seems to genuinely want to put things right and seeks to improve what it does.

We are grateful to the complainants who have contacted us for being open and honest and providing information to help us to do our job.

We would also like to thank the SRA's Complaints Team for the constructive way in which they have worked with us in our first year.

Jonathan Lenton
Independent Reviewer

Remit

We accept complaints from members of the public and from those regulated by the SRA.

Allegations of unreasonable delay, unprofessional behaviour, failures to follow published processes and procedures, poor communication and discrimination fall inside our remit.

We are unable to review or overturn regulatory decisions made by the SRA. Examples of regulatory decisions we cannot consider include complaints about whether or not the SRA:

- decided to investigate an allegation made about a regulated individual or firm.
- decided to take enforcement action against a regulated individual or firm.
- authorised a payment from its compensation scheme.

We do not investigate complaints about individual solicitors or legal firms.

Before we can become involved in a complaint, the complainant must first contact the SRA and give it an opportunity to address their concerns.

Most complainants receive a Stage 1 response from the unit where the complaint arose and, if they remain dissatisfied, a Stage 2 response from the SRA's Complaints Team. The Stage 2 response marks the end of the SRA's internal complaints procedure and informs the complainant of their right to ask the Independent Reviewer to consider their complaint.

Complainants must ask the Independent Reviewer to consider their complaint within 15 working days of the SRA issuing its Stage 2 response. The complainant is entitled to ask the SRA to refer their complaint to the Independent Reviewer. Alternatively, the SRA provides complainants with our contact details to allow them to contact us directly.

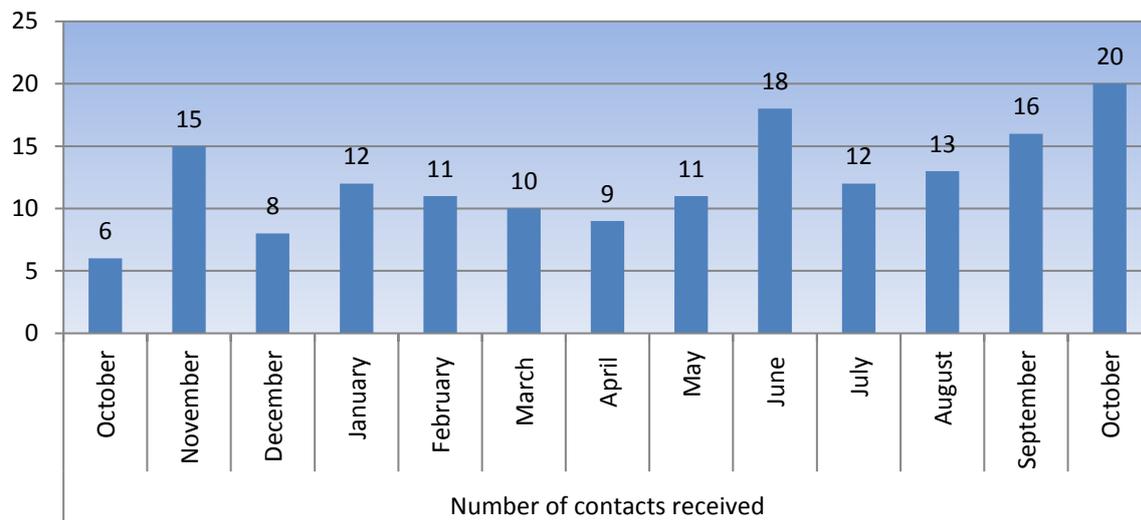
Complaint procedure audit

Every six months we carry out an audit of the SRA's Complaint Handling Procedure by reviewing around 50 of the complaints the organisation has handled. We take a sample of the Stage 1 complaints handled by different SRA units and the Stage 2 complaints handled by the Corporate Complaints Team. We review each complaint against a range of criteria, such as whether the SRA responded to all the issues raised by the complainant, whether its response was clear, whether the tone of letters was appropriate and whether the complainant experienced any delays.

We visited the SRA's offices in April and October 2016 to carry out our audits.

Initial Enquiries

The following chart shows the number of people who have contacted us each month to enquire about whether we could offer assistance to them:



In total, we have received enquiries from 161 people over the course of the year, an average of approximately 12 contacts per month.

When someone first contacts us with an enquiry, we will provide them with information about our service. Sometimes, we find the issue the complainant wishes to raise falls outside of our remit. In other cases, the complainant may not have yet completed the SRA's Complaint Handling Procedure. Often, we can quickly establish that we will not be able to accept a complaint for investigation, without the need for a formal preliminary review.

When we cannot help, we will advise complainants about other routes they can follow to pursue their complaint. For example, if someone wants to raise a complaint about the service they received from a solicitor, we will signpost them to the Legal Ombudsman.

For enquiries that appear to fall within our remit, we will issue a complaint form to the complainant, asking for full details of their complaint. Once the complainant has returned their completed complaint form, we will formally decide whether their complaint falls inside our remit. We call this our "preliminary review".

Of the enquiries we received between 26 October 2015 and 31 October 2016, 45 cases were closed without the need for a preliminary review (i.e. we established they were outside our remit or the complainant decided not to proceed, without the need to issue a complaint form and for us to conduct a formal review).

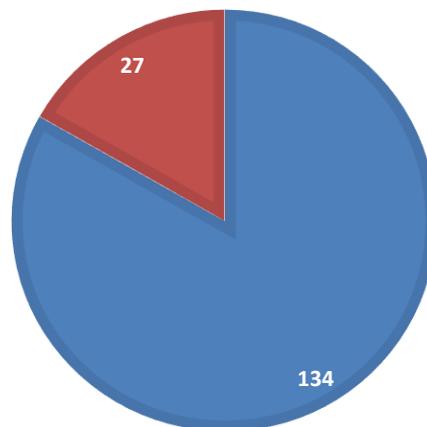
116 of the contacts we received proceeded to the preliminary review stage (see page 8).

How did complainants contact us?

The following chart shows the number of enquiries we received by referral from the SRA and the proportion of contacts received directly from the complainant between 26 October 2015 and 31 October 2016:

HOW WERE COMPLAINTS MADE?

■ Direct contact from the complainant ■ Referrals from the SRA

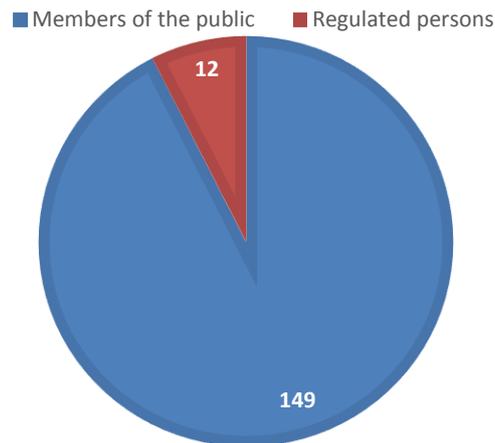


Clearly, most complainants prefer to contact us directly rather than relying on the SRA to refer their complaint to us. We do not think this is surprising. Many complainants who want us to consider their complaint will naturally want to provide us with the details of their complaint first hand and may be interested in how we can help. And in some cases the complainant may well have lost faith in the SRA and will not want to entrust the organisation with the referral of their complaint to our office. Nonetheless, a minority of complainants have taken up the option of a referral to us by the SRA and so it seems helpful for the SRA to offer such an option.

Who complained to us?

As the following chart shows, the vast majority of the enquires we received between 26 October 2015 and 31 October 2016 were made by members of the public:

WHO MADE COMPLAINTS?



The very small number of contacts received from those regulated by the SRA is of interest to us. It might be evidence that the SRA is providing a good quality of service to those it regulates and that therefore they do not need to complain. Alternatively, it might indicate that the complaints the SRA receives from regulated persons are generally being dealt with effectively. Without more information, it is impossible to say definitively why more solicitors are not bringing complaints to us.

If the SRA believes that solicitors are choosing not to pursue complaints about poor service they have received from the SRA, it may wish to consider looking for alternative ways of obtaining feedback from the profession about the service it offers.

Preliminary Reviews

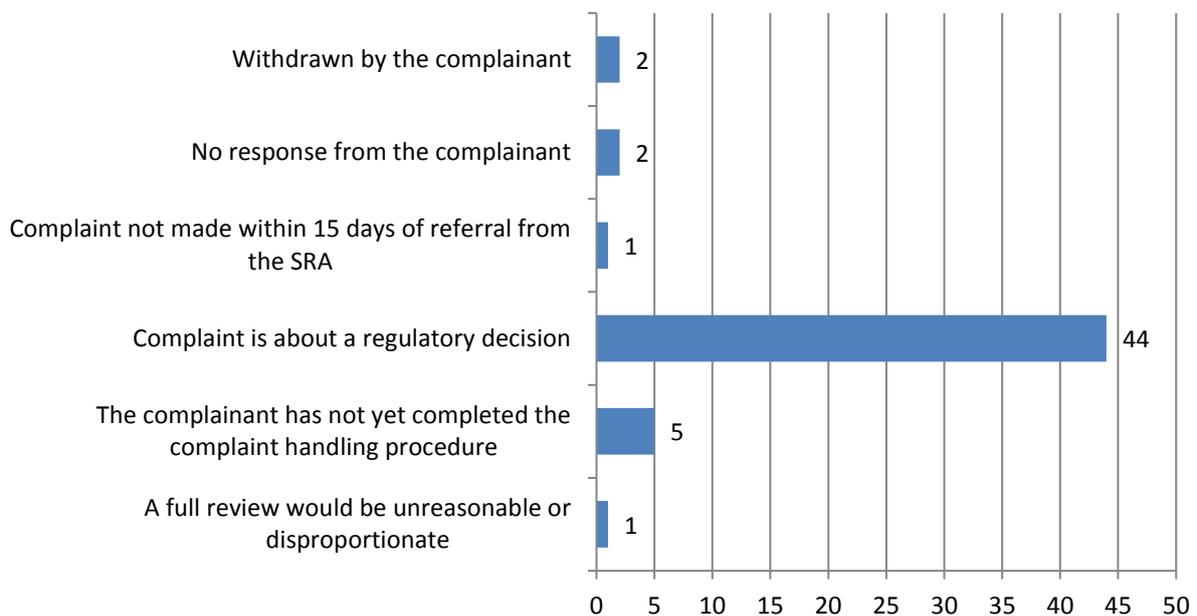
When a complainant returns a completed complaint form we will complete a preliminary review to determine whether the complaint falls inside our remit.

We have summarised the outcomes of our preliminary reviews we had completed up to 31 October 2016, below:

Number of people whose complaint we accepted for investigation	Number of people whose complaint we rejected at the Preliminary Review stage	Number of cases awaiting a Preliminary Review
45	55	16

The reasons for us rejecting complaints at the preliminary review stage between 26 October 2015 and 31 October 2016 are as follows:

Reasons for rejecting complaints



As the chart shows, by far the most common reason for us rejecting a complaint is that the complainant asks us to review a regulatory decision. While we can consider how the SRA has arrived at its decision – for example whether it has followed its published procedures or considered all the available evidence - we cannot review the decision itself.

We have found that many members of the public who contact us want us to review the SRA's Supervision Unit assessment of a report they have made about a solicitor. In most of these cases, we find that the SRA has already explained that this issue falls outside our remit.

Despite this, complainants are disappointed when we inform them that we are unable to review the SRA's decision.

To minimise the frustration complainants experience, we have suggested ways in which the SRA could do even more to help complainants to understand the remit of the Independent Reviewer – such as by reviewing the information it provides to complainants at each stage of the Complaint Handling Procedure. The SRA has thanked us for our suggestions and is now looking at how they can be implemented.

Solicitors also sometimes complain about regulatory decisions made by the SRA – most commonly when the SRA has decided to take action against a solicitor or a firm of solicitors. Such complaints are far less common compared to similar complaints from members of the public.

We have had to reject few complaints at the preliminary review stage on the basis that the complainant has not yet completed the SRA's Complaint Handling Procedure. Queries from complainants who have not yet received a Stage 2 response are usually dealt with when the complainant first contacts us, without the need for a formal review.

Complainants are given 15 working days to approach us to consider their complaint from the date the SRA's Stage 2 response is issued. This is a much shorter deadline than in some of the other schemes we operate. However, it does not appear to cause any significant problem and, in general, most complainants approach us before the time limit expires.

We have generally taken a lenient approach to complainants who have missed the 15-working day deadline, as long as the delay is not excessive and the complainant is able to give a valid reason for the delay. We understand that, sometimes, it might be impractical for the complainant to contact us within the time given. In consequence, we have rejected few complaints because they were made outside of the deadline. The SRA understands our approach and has not objected to any of the complaints we have accepted.

We received two complaints where the complainant did not provide information we had asked for after we have received their completed complaint form. In a couple of cases, the complainant withdrew their complaint after understanding the limits of our remit, even though we had identified issues which we could consider. In addition, there has been one case where we decided the issue raised did not warrant a full investigation.

Full Investigations

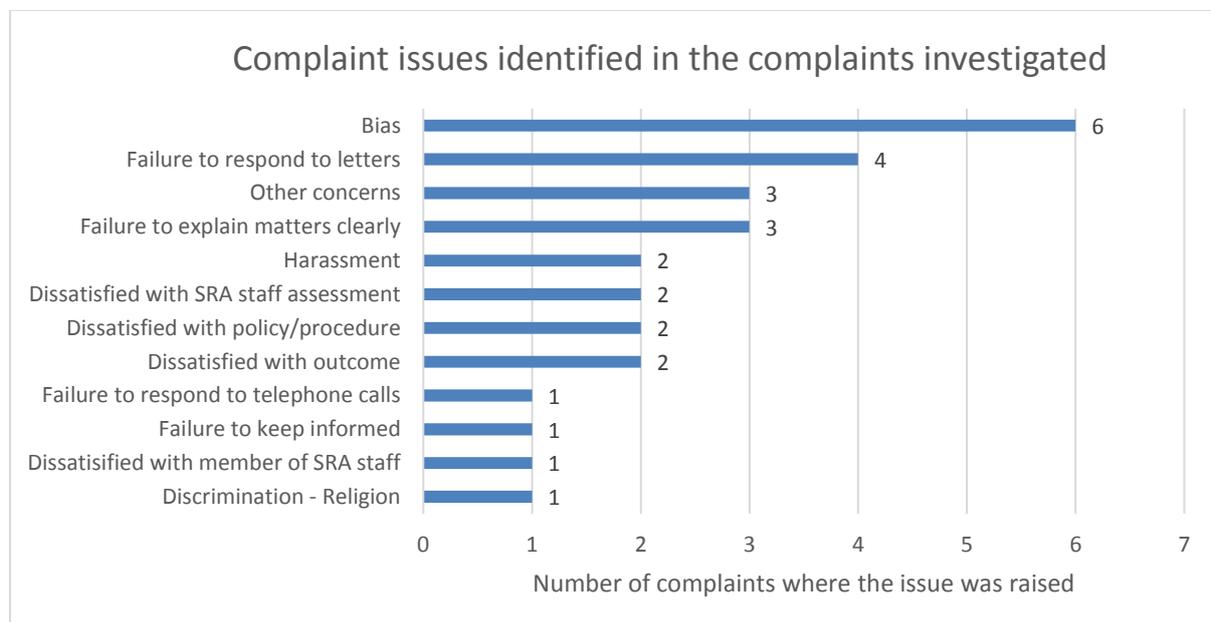
45 complaints were accepted for investigation between 26 October 2015 and 31 October 2016.

After accepting a complaint for investigation, we will ask both parties for evidence we require. Once we have obtained all relevant evidence, we will analyse it and arrive at a decision. We will issue a draft report setting out our findings and will invite the complainant and the SRA to make comments. Once we have received each parties' response, we will issue our final decision. If the complainant accepts the decision we will ask the SRA to implement the recommendations we have set out.

In summary, as of 31 October 2016:

Number of draft decisions issued	Number of final decisions issued	Investigations in progress
20	14	25

When we conclude an investigation and issue our final decision, we record the subject(s) of the complaint. The following chart records the types of issue we were asked to consider in the 14 complaints we had completed as of 31 October 2016:



A perception of bias is the single biggest reason for someone to complain about the SRA, with many complainants telling us that they believe the SRA is on the solicitor's side. We have found no evidence to support this view, but nonetheless we are sure the SRA will be interested that some complainants believe it to be the case. We think the fact that several complainants have raised an allegation of bias is again reflective of the fact that some complainants are using the Complaint Handling Procedure to try to challenge a regulatory decision made by the SRA.

We have investigated several complaints where it was alleged that the SRA either failed to respond to letters or where its response was not clear. We also received a complaint about the SRA failing to respond to telephone calls or keeping the complainant updated. Some of those issues are discussed later in this report, when we set out the findings from our investigations.

We have investigated one complaint where it was alleged that the SRA discriminated against the complainant because of their religion. We did not uphold the complaint.

Our view of the way in which the SRA handles complaints

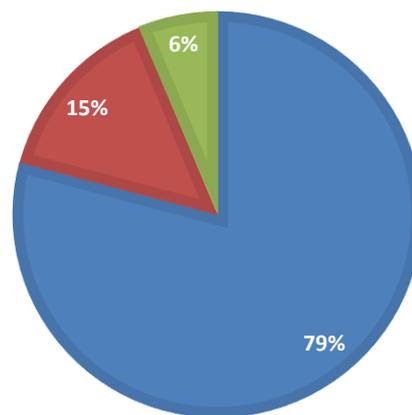
In this section, we set out our view of the way in which the SRA is handling complaints, based on our six-monthly audits of the SRA’s Complaint Handling Procedure and the complaints we have investigated.

Reviewing the SRA’s decisions

When we close a complaint, we record the outcome of each issue we have considered - whether we have “upheld”, “partially upheld” or “not upheld” each issue raised. For the complaints we closed between 26 October 2015 and 31 October 2016, we recorded the following complaint outcomes:

COMPLAINT OUTCOMES

■ Not upheld ■ Upheld ■ Partially upheld



Clearly, the vast majority of the complaints we have considered have not been upheld.

The fact that we uphold only a small proportion of the complaints we have investigated suggests that, in general, when the SRA receives complaints, it is dealing with them effectively. This is supported by the results of our complaint audits, where we have found very few decisions which raised concerns. We have been given the strong impression through the audits that the SRA is prepared to admit when it has made a mistake and will make genuine attempts to remedy problems it has identified.

We think that in some cases complainants have asked us to consider service issues in the hope that we will review the regulatory decision the SRA has made. We have found that some complaints have no real substance.

The standard of the SRA's responses

We have found much to commend the SRA for when reviewing the standard of its written responses to complainants. We feel that in the vast majority of cases, the SRA is doing an excellent job of understanding the issues complainants have raised and then responding to them. We have seen evidence that when the nature of a complaint is unclear, the SRA will make efforts to contact the complainant for clarification before responding. And we have also noted in several cases that the SRA has gone beyond the issues the complainant has raised and addressed areas of concern that have been identified during the complaint investigation.

We have found that, generally, the SRA responds to all the points complainants make while at the same time keeping its written responses concise. The letters we have reviewed have been consistently professional and polite and on a number of occasions we have commented upon how SRA representatives have shown sensitivity when discussing delicate or difficult issues.

There were a couple of cases we investigated where we felt that the SRA could have provided more information when responding to a complainant. We are aware that the SRA aims to be succinct within its written communication. But it is also obviously important to respond to all the salient points made within a letter.

Our audits have rated the standard of the Complaint Team's responses significantly higher than responses from other areas of the organisation. We feel that some of the Complaints Team practices and approaches to complaints could be used to help the other units to deal with complaints even more effectively.

ANONYMISED CASE SUMMARY 1

Mrs A made a complaint to the SRA after it closed down a firm which she had appointed to represent her in a property purchase. She stated that the firm's closure had delayed the completion of the purchase of the property. Mrs A was also unhappy with the response she received from the SRA. She said that SRA's letter has caused her a significant amount of upset and distress.

When we considered the complaint, we were satisfied that the SRA had passed Mrs A's file to a new solicitor within a reasonable time frame and that while it was clearly upsetting for Mrs A to find that she needed to appoint a new solicitor, the SRA had minimized the disruption she had been caused. We also felt that while Mrs A was clearly upset by the SRA's response, the SRA had dealt with the complaint in a sensitive and understanding manner and we made no criticism of the standard of its communications.

ANONYMISED CASE EXAMPLE 2

Mr B complained that he had been misadvised about the scope of the SRA's investigation into a firm of solicitors he had reported. Mr B said that, initially, he was told that the SRA would conduct a forensic investigation of the complaint which would take many months and which would result in a full report being produced. Mr B later found that the SRA had completed its investigation within a week of him raising the issue. In response, the SRA explained that it had been quickly able to confirm that the firm had acted appropriately and that there was no evidence of misconduct.

When we considered the complaint, we felt the SRA representative who the complainant had originally spoken to had provided inaccurate information about the likely scope of the SRA's investigation and this was a shortfall in service. We also felt that the SRA's subsequent response to the complaint was not entirely helpful and did not address the specific points the complainant had made. We made recommendations on how such complaints could be handled more effectively in future.

General complaint handling

In most of the cases we have reviewed, we have been satisfied that the SRA has adhered to its published Complaint Handling Procedure. In the majority of cases, the SRA has promptly identified when a complaint has been made and responded appropriately. We have also noted that the SRA is diligent in informing complainants of the next stage of the complaints procedure if they remain dissatisfied.

One issue we have raised is in relation the number of cases that bypass Stage 1 of the procedure. The SRA's Complaint Handling Procedure allows for complaints to bypass Stage 1 (which is dealt with by the Unit where the complaint arose) and instead be referred to the Complaints Team. This is sometimes sensible – for example, if the relationship between the complainant and the relevant Unit has broken down, it makes sense for the Complaint Team to handle the resulting complaint. However, we identified that, for a time, all complaints about the assessment of misconduct reports were bypassing Stage 1 of the Complaint Handling Procedure and were being dealt with by the Complaints Team. We had some concerns about this approach as we felt that, as a general rule, the Unit where the complaint arose is best placed to deal with a complaint in the first instance. The SRA informed us that, since March 2016, complaints about the way in which a report had been assessed would receive a Stage 1 response and at our October 2016 audit we did not find any complaints made after March 2016 about the report assessments which had bypassed Stage 1.

We have not received any complaints which allege that the SRA has ignored or turned down a request for a reasonable adjustment from someone trying to access its services. We have, however, seen a couple of cases where an individual has explained that they had some

difficulties communicating and we have suggested that the SRA ensures it is proactively offering support rather than waiting for someone to ask for assistance.

Providing information

The SRA publishes a wealth of information on its website about how it carries out its regulatory duties. However, we have identified a few cases in which it might be helpful for the SRA to provide more information about the way in which it acts as a regulator.

For example, one member of the public was clearly distressed by the legal proceedings ongoing against them. When we reviewed the complaint, we concluded that the SRA could have provided the complainant with more advice about where they could turn for help and support. We identified that while the SRA had policies on how to help vulnerable people, it did not have a standard approach to how to help people who were upset about ongoing legal proceedings. As the SRA must regularly come into contact with such people, we recommended that it consider introducing guidance for employees to help them to provide assistance.

In another complaint where the SRA was taking regulatory action against a solicitor, we felt that the solicitor struggled to understand what was happening and what they were entitled to expect from the SRA. We suggested that the SRA should review the information provided to solicitors in such situations.

In a further case, we identified that the SRA failed to answer questions about its special payments policy, which the complainant had found out about through references on the SRA's website. We felt that it was reasonable for the complainant to expect the SRA to answer the questions raised.

ANONYMISED CASE EXAMPLE 3

Mrs C provided information in support of a claim she was making to the Compensation Fund. The SRA rejected Mrs C's claim. Mrs C was unhappy with the SRA's decision and informed the SRA that she had further evidence to support her claim. The SRA informed her that it would review the claim and invited her to submit her additional evidence. It also informed her that it would respond to her by a particular date. However, it then issued its response two weeks before the deadline date and before Mrs C had provided her information. Mrs C complained that she had not been given an opportunity to provide evidence to support her case.

We agreed with Mrs C that the SRA had not given her a reasonable opportunity to submit the information she held in support of her claim because it had not made it clear when the information needed to be submitted by. In consequence, Mrs C had to send a further response to the SRA with the relevant evidence and so her claim had unnecessarily been prolonged. We required the SRA to apologise and recommended that the SRA ensured it had gathered all the evidence it required before responding to an individual's concerns.

While our complaint audits concluded that, in the main, the quality of the SRA's responses to queries is good, these few cases are a useful reminder that the SRA should continue to ensure that it is providing adequate information to both solicitors and the public.

Delays

In several complaints, we identified that complainants had experienced delays when following various SRA procedures.

We have found that, sometimes, the SRA has failed to provide information within published timescales. In some cases, it appears the SRA did not respond to requests because assumptions were made that complainants had already received information when in fact they had not. In some cases, the customer experienced delays of several months in receiving a response to correspondence. This seemed to happen most frequently when the complainant questioned a regulatory decision – in a few cases, the SRA did not respond to the complainant's correspondence and they had to send a further letter to chase up a response.

Delays are incredibly annoying and can give the impression that an organisation is unprofessional or uninterested in the person who has made contact. We think many of the delays we have identified could have been avoided.

We understand the SRA has introduced more robust procedures to make sure all correspondence is acknowledged and addressed appropriately.

Sharing information without the complainant's authority

The SRA should take care not to act on a complainant's behalf without their express authority. In one case we reviewed, the SRA referred a complaint to our office without the complainant's permission. The complainant was understandably aggrieved that the details of their complaint had been passed to another body without their permission. It appears that this was an isolated incident and, normally, the SRA will only refer complaints to the Independent Reviewer on request from the complainant.

In another complaint, the SRA sent an email containing information about the complainant to another person. Again, the complainant was unhappy that details had been shared without their permission.

While mistakes will happen within any large organisation, it is vitally important that measures are put in place to ensure that individuals are consulted before their information is shared.

The SRA has given us assurances that it takes such matters very seriously. It has informed us that all staff receive training in Data Protection and confidentiality and are provided with regular reminders and tips on how to avoid breaches. It has apologised to both the complainants concerned.