

SRA BOARD
7 December 2021



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This paper will be published

SRA Corporate Complaints

Purpose

- 1 To update the Board on our corporate complaints for 2019/20, including the Independent Reviewer's annual report.

Recommendations

- 2 The Board is asked to:
 - a) note the Independent Reviewer's Annual Report 2019/20 at annex 1.
 - b) note the key areas we continue to focus on to improve our service (paragraphs 18 to 34).

Equality, Diversity and Inclusion considerations

Consideration	Paragraph no
We have a clear commitment to treating people fairly	4, 30 & 34
We recognise that the clarity of our writing is key to helping people, many of whom may be distressed or vulnerable, to understand what we do and the decisions we make. We provide guidance for staff and train out our approach to communication from induction onwards.	28
This paper covers complaints about bias and discrimination within our services, noting that we received 26 such complaints in 2019-2020 (four complaints included concerns being raised about discrimination, and 22 complaints included concerns about bias). It also sets out what we are doing to address any issues of this nature.	30-34

If you have any questions about this paper, please contact Jane Malcolm, Executive Director, External and Corporate Affairs, Jane.Malcolm@sra.org.uk or 0121 329 6091.

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SRA Corporate Complaints

Background

- 3 This document is our response to the Independent Reviewer's (IR) annual report. It highlights what our customers tell us about our service and what we have been doing to act on this valuable insight.
- 4 We are committed to giving everyone a high standard of service, treating people fairly and acting transparently. While corporate complaints represent a small proportion of the many thousands of contacts we have with those who use our services, we recognise that we do not always consistently deliver the high standards we aim for. And that is where our service complaint and IR arrangements come in.
- 5 Corporate complaints provide an invaluable opportunity to address areas of concern directly with individuals. They also provide information about how we are performing, allowing us to identify themes and actions to improve. Our corporate complaints process is not a means by which formal regulatory decisions can be appealed, but if we find our procedures have not been followed, or if we have, for example, failed to take into account material information, we can, and do, make sure matters are reviewed again.
- 6 We have a comprehensive three Stage procedure for handling complaints made about our service. At Stage 1, complaints are dealt with by staff in the operational area in which the complaint arose. We are often able to resolve many of our cases informally, within days, at this Stage. If the complainant remains dissatisfied, the concerns are escalated to Stage 2 and are dealt with by our Corporate Complaints Team (CCT). This provides a fresh perspective on a complaint because our CCT is not attached to any operational department. Our complaints process is flexible and in some circumstances our CCT will proactively step in early and work with operational units to help ensure that things get back on track very quickly.
- 7 If a complainant remains unhappy, a request can be made for an independent review at Stage 3. This Stage plays a key part in our complaints process, providing a further check and balance on our customer service, and helping to provide independent assurance to our customers. The Centre for Effective Dispute Resolution (CEDR) was appointed, following an open, competitive, procurement process, as our Independent Reviewer (IR) on 1 October 2018. We thank the IR for its second annual report and welcome its independent scrutiny and constructive feedback.
- 8 As set out above, the IR considers individual complaints where a complainant has not been satisfied following our internal processes. Complainants may contact the IR direct or we may pass the complaint on with the complainant's consent. The IR also undertakes an annual audit of our complaints handling at stages 1 and 2 of our complaints process.

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Discussion

Number of corporate complaints November 2019-October 2020

- 9 We investigated 927 complaints in this period at Stages 1 & 2 of our complaints process. This was just over 10% higher than the year before where we dealt with 815 complaints. During 2019/20, 91% of Stage 1 complaints were dealt with within 10 working days of acknowledgement and 90% within 20 working days of acknowledgement by the CCT at Stage 2.
- 10 The IR investigated 105 complaints at Stage 3. This is much higher than the previous year (57) and the IR explains on page four of its report that this reflects a high number of open cases brought forward from the previous year and faster turn-around times during the lockdown period.
- 11 More generally the number of cases the incumbent Reviewer investigates each year has been higher than its predecessor, in part because it provides responses to complainants even if their core complaint falls outside their remit. We think this is an improved service for our customers as no-one is denied an independent review, and every complainant receives a considered and full explanation.

Year	Stages 1 and 2	Stage 3
Nov 2016 - Oct 2017	958	37
Nov 2017 - Oct 2018	827	26
Nov 2018 - Oct 2019	815	57
Nov 2019-Oct 2020	927	105*

* See paragraphs 10 & 11 above.

- 12 The CCT works in close liaison with the IR to make sure that it is provided with all the information that it needs to carry out its Stage 3 work. It facilitates the IR's audit and discusses matters with its senior staff throughout the year.
- 13 Most of the complaints considered by the IR in the period under review found no additional failings to those already identified through the SRA's internal complaint Stages. We accepted all the recommendations made by the IR (15 recommendations) and very much appreciated its open and transparent feedback, valuable insights, and helpful suggestions.

Learning from complaints and improving our services

- 14 The CCT works across all areas of the organisation. It seeks not only to resolve complaints but to use the insight they provide to improve our handling of matters, our processes and customer service. In addition to the improvement areas highlighted in the IR's annual report, we discuss our own observations with internal operational colleagues, making various incremental improvements to our service on an ongoing basis.

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- 15 The majority of the complaints we receive each year are about how we handle complaints about solicitors. These represented nearly three quarters of the complaints we received for this period (672) - we dealt with 9,375 reports about solicitors in the same period.
- 16 The second biggest source of complaint was about our Contact Centre. We received 139 complaints about our Contact Centre for this period, in which it dealt with more than 205,000 enquiries across all channels. Our Client Protection unit which deals, among other things, with claims to our Compensation Fund for money that a solicitor has stolen or failed to account for, was the third biggest source of complaint, receiving 69 complaints against the backdrop of having dealt with over 1,000 applications for compensation. The remainder of the complaints involved a small number received by other operational areas such as our Authorisation and Legal Enforcement units.
- 17 The top three themes we have identified from the complaints received are detailed below. Given the numbers referred to above, these themes apply largely to how we handle complaints about solicitors.

How we are learning from service complaints – top three themes.

Concerns about the outcome of our regulatory investigations

- 18 Dissatisfaction with the outcome of a complaint made to us about a solicitor continues to be the top reason why our customers complain. As identified in previous years, the IR has said this lay at the heart of every one of the 105 complaints it responded to in this period (IR's report, page four).
- 19 Some of this dissatisfaction, as previously reported, arises from a mismatch between what the public may expect or want us to do as regulator and what we in fact do. For example, complainants sometimes hope we can get involved in their individual legal case and tell a solicitor what they must do, whereas we work to identify any serious regulatory issues and to take appropriate action.
- 20 Mistakes will occur from time to time in a solicitor's or firm's work and we do not penalise every transgression a solicitor may make. But we do have to balance this carefully with making sure that the public have confidence that we tackle the right things and care about high professional standards.
- 21 We continue to review and update the information for the public on our website and in our letters. We will be reviewing the relevant content on our website again next year to make sure it is as useful as it can for people with concerns about solicitors and firms, and to direct them to the best organisation to help.
- 22 There can be other reasons that may lead to dissatisfaction with the outcome of our regulatory investigations. For example, we do not routinely share with complainants (and cannot in many cases) all the information we have gathered as part of our investigation. But it is important that both parties understand the reasons for our decisions and the information and evidence we have relied

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upon in reaching them, or it can risk undermining consumers' confidence in our investigations and leave people with perceptions that we may have reached the wrong conclusions.

- 23 We updated our internal guidance for staff this year on our approach to disclosure and also developed and published new e-learning for staff covering individuals' rights to access their own data. Related to this is a review of our publication policy looking carefully again at what we publish on our website and when.
- 24 We also found, in a small number of cases, instances where we have needed to look again at our decisions. We always make sure lessons are learned and shared if this occurs. More broadly we have established a new internal independent quality assurance team specifically to assess the quality of our disciplinary decisions, and we are committed to do all we can to make sure we consistently reach the right decisions.

Our timeliness/keeping customers updated

- 25 The IR highlights that delay (outside of concerns about our decisions) is the most common cause of complaint. Delay was an issue raised in 26 cases reviewed by the IR. In four additional cases complainants were concerned that they had not been kept updated (page six of the IR report). Similarly at stages 1 & 2 of our complaints process delay was the most common concern. We received 90 complaints about delay. The majority of these were about our Investigations and Supervision Unit and we upheld the great majority of these complaints.
- 26 While the volume and complexity of some of the cases we deal with mean we are not always able to conclude cases as quickly as we would like and which lead to longer customer waiting times, we know there is much more we must do to address the timeliness of our investigations.
- 27 Some of the things we have already implemented, such as new IT platforms and capabilities, have helped us deal more efficiently with certain aspects of our work, and better monitor our cases. But we know it is not acceptable to any party for our investigations to go on for any longer than they need to and we will be looking at the issue of timeliness further over this next year so that we can make the improvements needed.
- 28 On communication, the clarity of our writing is key to helping people, many of whom may be distressed or vulnerable, to understand what we do and the decisions we make. We promote our 'Writing the SRA Way' guidance, which sets out how we can explain complex matters in a clear and accessible way, with our staff. This includes training all new joiners as part of our induction training, refresher sessions and targeted training on key areas of our business as needed, along with a strong maintenance programme of training, coaching and quality checks.

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- 29 While poor communication still features in some of the complaints we receive, and in some cases this is linked to our approach to disclosure of information mentioned above, these complaints have generally fallen year after year following the implementation of our Writing the SRA way programme.

Treating people fairly

- 30 Fairness and impartiality is at the heart of everything we do, and it is important we maintain customer confidence in our approach. We take any concerns of this nature very seriously and we monitor the number of complaints that refer to potential discrimination.
- 31 Of the small number of complaints we received about bias and discrimination (10 considered by the IR, 26 at Stages 1&2), the IR found no evidence of any actual bias or discrimination in the cases it considered and its broader casework audit reviews (page 8 of the IR's report). It also found that the issues arose from situations in which a complainant had expected us to take a particular course of action and considered we were discriminating against them when we explained we could not act in a particular way (page 7 of the IR's report).
- 32 The perception of unfairness can arise due to a number of reasons, for example, due to a misunderstanding about our role and scope of service. In half of the cases where bias was alleged, we found elements of poor service in our handling which is likely to have led to complainants feeling we acted in a biased way. In a small number of cases our analysis of the regulatory issues presented was not sufficiently thorough, which meant we needed to review the substantive case and decision we had made. In these cases, complainants understandably formed views that we had acted in a biased way.
- 33 We must make every effort to share our views, and evidence, if appropriate, with complainants before we make decisions and close our investigations. Instances of a breakdown in our process and failure to check in with complainants left some naturally feeling that they had not been treated fairly or been properly heard.
- 34 Again, we train all our colleagues at the outset of their careers with us, and we provide refresher training, in unconscious bias, as well as equality, diversity and inclusion – to reinforce the importance of treating everyone equally. Our CCT and Equality, Diversity and Inclusion teams provide advice to colleagues on how to support our customers who may need help because of their personal circumstances. This may be advice on providing reasonable adjustments in how we deliver our service or in dealing with highly sensitive issues.

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Recommendations: the Board is asked to:

- (a) note the Independent Reviewer's Annual Report 2019/20.**
- (b) note the key areas of complaint we have identified and the issues we continue to focus on in order to improve our service.**

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Supporting information

Previous Board consideration

- 35 We provide an annual report to the Board, along with the Independent Reviewer's annual report. Our last annual report about complaints came to the Board in October 2020.

Links to the Strategic Plan and / or Business Plan

- 36 Our corporate complaints processes supports our strategic objective 1: 'We will set and maintain high professional standards for solicitors and law firms as the public would expect and ensure we provide an equally high level of operational service'

How the issues support the regulatory objectives and best regulatory practice

- 37 The issues discussed in this paper support the regulatory objective to protect and promote the public interest. They relate to all five of the Better Regulation Principles: proportionate, accountable, consistent, transparent and targeted.

Public/Consumer impact

- 38 Our corporate complaints reporting at all Stages helps us to better understand the experience of the public and businesses who use our services and learn where we can make improvements.

What engagement approach has been used to inform the work and what further communication and engagement is needed

- 39 The IR's Annual Report for 2018/2019, and its predecessor reports, are published and we use its feedback to improve our service.

What equality and diversity considerations relate to this issue?

- 40 This paper covers complaints about bias and discrimination within our services, setting out what we are doing to address any issues of this nature. We also recognise that the clarity of our writing is key, and note that we provide reasonable adjustment as needed.

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Annexes
Annex 1 SRA Independent Reviewer Annual Report November 2019 - October 2020