

SRA BOARD
20 October 2020

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This paper will be published

SRA Corporate Complaints

Purpose

- 1 To update the Board on our corporate complaints for 2018/19, including the Independent Reviewer's annual report.

Recommendations

- 2 The Board is asked to:
 - a) note the Independent Reviewer's Annual Report 2018/19 at annex 1
 - b) note the key areas we continue to focus on to improve our service (paragraphs 19 to 39).

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

Equality, Diversity and Inclusion considerations

Consideration	Paragraph no
Our commitment to treating people fairly is set out at paragraph 3	3
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.	32-34
This paper covers complaints about bias and discrimination within our services, noting that we received 16 such complaints in 2018/2019 (four of discrimination and 12 of bias). It also sets out what we are doing to address any issues of this nature.	35-39

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SRA BOARD
20 October 2020

CLASSIFICATION – PUBLIC



SRA Corporate Complaints

Background

- 3 We are committed to giving everyone a high standard of service, treating people fairly and acting transparently. We recognise that we sometimes make mistakes and we look to resolve any problems with our service as quickly as possible.
- 4 Corporate complaints represent a small proportion of the many thousands of contacts we have with those who use our services, but they provide an invaluable opportunity to address areas of concern with individuals direct. And, more broadly, provide information about how we are performing, allowing us to identify actions to improve.
- 5 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 able to resolve many of our cases informally, within days, at this stage.
- 6 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, unadulterated, perspective on a complaint because our CCT is not attached to any operational department.
- 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 assurance to our customers that complaints about our services are being handled fairly and transparently.
- 8 Our corporate complaints process is not a means by which formal regulatory decisions can be appealed. However, 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 by our operational teams.
- 9 The Centre for Effective Dispute Resolution (CEDR) was appointed, following an open, competitive, procurement process, as our Independent Reviewer (IR) on 1 October 2018. It took over from Ombudsman Services who fulfilled this role between 2015 and 2018. This is its first annual report as IR.
- 10 As set out above, the IR considers 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.

SRA BOARD
20 October 2020



CLASSIFICATION – PUBLIC

- 11 The IR not only investigates individual complaints about our services, it also undertakes audits of our complaints handling and provides an annual report on its work.

Number of corporate complaints

- 12 The total number of complaints we investigated in this period, at Stages 1 & 2 of our complaints process, has remained consistent with last year's numbers at 815 (564 at Stage 1 and 251 at Stage 2). The IR investigated 57 complaints at Stage 3.
- 13 The incumbent Reviewer takes a different approach to its predecessors. It provides responses to complainants even if their core complaint falls outside the IR's remit, as set out at page four of its annual report (page 4). We think this reflects an improved service for our customers because no-one is denied an independent review, and every complainant receives a considered and full explanation. This approach did, however, lead to us seeing a higher number of Stage 3 reviews in this period (57) than in previous years. The higher number was also a result of the IR having reviewed nine matters that its predecessor, Ombudsman Services, had, unfortunately, been unable to complete.

Year	Stages 1 and 2	Stage 3
Nov 2015 - Oct 2016	1,366	14
Nov 2016 - Oct 2017	958	37
Nov 2017 - Oct 2018	827	26
Nov 2018 - Oct 2019	815	57

- 14 During 2018/19, 89% of Stage 1 complaints were dealt with within 10 working days of acknowledgement and 95% within 20 working days of acknowledgement by the CCT at Stage 2.
- 15 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 six-monthly complaints audits and the senior staff meet representatives of the Reviewer service throughout the year.
- 16 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 (seven cases) and very much appreciated its open and transparent feedback, valuable insights, and helpful suggestions.

Recommendation: the Board is asked to note the Independent Reviewer's Annual Report 2018/19.

SRA BOARD

20 October 2020

CLASSIFICATION – PUBLIC



Learning from complaints and improving our services

- 17 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 our interaction with those who use our services.
- 18 In addition to the improvement areas highlighted in this annual report, the IR meets with us throughout the year providing feedback on trends. In turn we discuss our own, and the IR's observations, with internal operational colleagues, making various incremental improvements to our service on an ongoing basis.

Three service complaint themes and what we are doing to improve

Customers' concerns about the outcome of our regulatory investigations/ understanding what we do

- 19 We could not fulfil our role without people raising their concerns with us about those we regulate. We consider all complaints raised with us about solicitors, law firms, and those who work in them, carefully. Many, however, will not lead to any form of regulatory action.
- 20 This may be for a variety of reasons. For instance, there may be insufficient evidence of unethical behaviour that we should be pursuing, or there may be more appropriate bodies to help (such as the Legal Ombudsman or the courts). We also receive complaints where there may have been a technical breach of our rules, but the issue does not warrant our intervention.
- 21 As identified in previous years, dissatisfaction with the outcome of a complaint made to us about a solicitor or firm continues to be the top reason why our customers complain. It accounted for nearly 60% of the complaints we received at Stages 1 and Stage 2 in this time period, and the IR said this lay at the heart of every one of the 57 complaints it responded to in this period (IR's report, page five).
- 22 While there were occasions when we agreed with the complainant, and we needed to consider a regulatory issue further, in the majority of cases the outcomes we reached adhered to our decision-making criteria and stood up to scrutiny.
- 23 As noted by the IR, it can be a challenge to explain the nuances of our regulatory work to our customers. On the one hand, we do not want to discourage people telling us about any concerns they have about solicitors because we could not do our work without this information. That investment made by our customers, however, may not lead to any tangible benefit for them and their legal issue. We have no power of redress, we cannot intervene into an individual's legal case, we cannot provide legal advice and we cannot tell a solicitor how to handle the legal case they are dealing with.

SRA BOARD

20 October 2020



CLASSIFICATION – PUBLIC

- 24 These are, perhaps, natural expectations for complainants to have. We make our role clear on our website, in our publications and in a joint leaflet published with the Legal Ombudsman. We also set out what we can and cannot do in our initial letters and throughout a case. However, our customers, nonetheless, often hope that our regulatory investigation will, if not deliver a direct benefit to them, have a positive effect on their individual legal matter. When we decide not to pursue an issue further therefore, this can be particularly disappointing for the individual who has brought concerns to us.
- 25 Our new Standards and Regulations, which we launched in November 2019, and our supporting Enforcement Strategy, renew the emphasis on the need for us to give reasons to complainants about any decision to close a matter. This along with a number of new case studies on our website, provides greater clarity to our customers about the criteria we use in deciding whether a complaint about a solicitor will be taken forward.
- 26 We continue to incrementally refine our messaging in our letters, and make adjustments to our processes, including in this period taking the time to talk to complainants at an early stage to make sure we have properly understood the nature of the concerns and to explain our role and powers. But we welcome any further suggestions the IR may have to reduce further, if we can, the dissatisfaction that people may feel when we are not able to provide what a they are looking for.

Our timeliness

- 27 The IR highlights that timeliness is one of our customers' main causes of concern and was raised in 23 of the 57 cases it considered (page seven of the IR report).
- 28 This year we have been clearer with our case-handlers about the importance of providing timely and relevant information to our customers. This includes clearly explaining our processes, providing their direct telephone number and email addresses to make it easier for people to get in touch if they are unsure about what is happening and providing clear timescales about our next contact and next steps.
- 29 Our plans for the year ahead include further investment in growing our casework teams' capacity and capability to help address this. In addition, we are developing further our new IT infrastructures and systems. This will lead to both efficiencies in our casework and the ability to better monitor the progress of individual cases.

Our communication

- 30 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.

SRA BOARD
20 October 2020



CLASSIFICATION – PUBLIC

This includes training all new joiners as part of our induction training, refresher sessions and targeted training in key areas of our business as needed.

- 31 Although we continue to see a reduction in the number of complaints received about our communication since we introduced our guidance and training, we know there is more to do. And we have continued to maintain operational focus on this key area, by introducing new, and refreshing existing, training materials for our staff.
- 32 We also run each year a series of events for our staff in National Customer Service week dedicated to raising awareness about the direct link between the way we communicate with our customers and the trust they have in us and, more widely, in the safe provision of legal services. Many events in this week consider how we can develop and nurture that trust in our daily interactions with our customers.

Fairness/impartiality

- 33 Fairness and impartiality is at the heart of everything we do, and it is important we maintain customer confidence in this. We take any concerns of this nature seriously and we monitor the number of complaints that refer to potential discrimination.
- 34 Of the small number of complaints we received in this area, it is reassuring to note that the IR concluded that the issues were to do with the customers' perception of unfairness, rather than finding any evidence of actual unfairness in how we handled their case.
- 35 This also reflects what we saw when we considered the 12 complaints of bias and 4 complaints of discrimination that we saw at stages 1 & 2.
- 36 Most of the complaints of bias we received were from members of the public, who were dissatisfied with the outcome of our investigations, and felt we had been biased in favour of solicitors and firms.
- 37 As set out at paragraphs 19-26 above, the perception of unfairness can arise due to a misunderstanding about our role and scope of service. But this can also arise when our explanations have been unclear or our tone unsatisfactory. As set out in paragraphs 30 to 32 above, we continue to train our staff to provide clear and accessible explanations of our decisions.
- 38 In addition, we train everyone, at the outset and provide refresher training, in unconscious bias, as well as equality, diversity and inclusion – to reinforce the importance of treating everyone equally.
- 39 From time to time, concerns about how we approach health issues in our regulatory investigations can arise. Two of the four complaints about discrimination we received were about our handling of investigations from solicitors who had health concerns. We have fed back any learning points to

SRA BOARD

20 October 2020



CLASSIFICATION – PUBLIC

our operational teams and we have this year developed, and recently published, guidance about our approach in our investigations to a regulated individual's health concerns.

- 40 We received one complaint in this period about race discrimination, and this was made by a solicitor we were investigating. We found no discrimination but did find a genuine lack of understanding on the solicitor's part about why our rules of professional conduct had been breached. This led to their perception that we could only have been pursuing matters for unlawful/improper reasons.

Recommendation: the Board is asked to note the key areas we continue to focus on in order to improve our service.

SRA BOARD

20 October 2020

CLASSIFICATION – PUBLIC



Supporting information

Links to the Strategic Plan and / or Business Plan

- 41 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

- 42 The issues discussed in this paper support the Legal Services Act 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

- 43 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

- 44 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?

- 45 This paper covers complaints about bias and discrimination within our services, noting that we received 16 such complaints (four of which related to discrimination) in 2018/19 and setting out what we are doing to address any issues of this nature. We also 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.

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Date 21 September 2020

Annexes

Annex 1 SRA Independent Reviewer Annual Report November 2018 - October 2019