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ANNUAL REPORT

FROM THE INDEPENDENT REVIEWER OF
THE SOLICITORS REGULATION AUTHORITY



Solicitors
Regulation
Authority



INTRODUCTION

I am pleased to present the Annual Report of the Independent Reviewer of complaints about the service provided by the Solicitors Regulation Authority (SRA). This report covers the period 1 November 2022 to 31 October 2023.

This report covers the two distinct roles of the Independent Reviewer:

- to provide independent oversight of the way that the SRA carry out their complaints handling function; and
- to provide a final independent response for those complaints that the SRA cannot resolve internally.

Independent Review represents the final stage of the SRA's complaints process. In the first instance, complaints about the SRA's service are responded to by the business area where the complaint arose (stage 1) whilst the Corporate Complaints Team reviews complaints which remain unresolved (stage 2). Only complaints which have been through this process and remain unresolved may be referred for Independent Review (stage 3).

Our Independent Reviewers have a very specific remit. We cannot overturn any regulatory decision taken by the SRA. However, we can look at how it has handled and responded to complaints about its own service, including such matters as:

- Was the investigation thorough and fair?
- Were all the relevant facts were taken into account?
- Were the conclusions reached reasonable and properly explained?
- Was the investigation handled efficiently, without unnecessary delay?

Compared to the past two years, the overall number of enquiries to CEDR has dropped back from the unusually high levels that we have seen in each of the past two years. This year, we received only 114 enquiries as compared to 143 last year. I suspect that this change is attributable to the unwinding of the fall-out from the Covid-19 lockdown period. Interestingly, however, the proportion of those enquiries that then resulted in our receiving applications for Independent Review has risen to 65% (74 applications) from last year's figure of 57% (81 applications).

Last year, I commented that the overall standard of service being delivered by the Corporate Complaints Team had advanced following the introduction of a new case management system which seems to be improving the timeliness of responses. I am pleased to report that standards seem to have advanced even further in this past year.

The number of complaints referred to us still represents a remarkably small proportion of the SRA's overall caseload, and those complaints which we do see are invariably accompanied by very thorough and considered responses from the SRA Corporate Complaints Team. I would like to acknowledge their work and thank them for their cooperation and assistance.

Graham Massie
SENIOR INDEPENDENT REVIEWER

INDIVIDUAL CASEWORK

INITIAL ENQUIRIES

■ During the 12-month period from 1 November 2022 to 31 October 2023, we received 114 initial enquiries about our work. This level of initial enquiry is significantly below the level of the past two last years.

As in previous years, the majority of enquiries were from members of the public, with only a small proportion coming from solicitors:

	12 months to 31 Oct 2023	12 months to 31 Oct 2022	12 months to 31 Oct 2021	12 months to 31 Oct 2020	13 months to 31 Oct 2019
Solicitors	5	5	4	9	10
Members of the public	109	138	146	103	146
TOTAL	114	143	150	112	156

When someone first contacts us with an enquiry, we provide them with details of our service and an application form, unless it is immediately apparent to us that they have not yet completed the SRA's internal procedures, in which case, we sign-post them accordingly.

	12 months to 31 Oct 2023	12 months to 31 Oct 2022	12 months to 31 Oct 2021	12 months to 31 Oct 2020	13 months to 31 Oct 2019
Proceeded to review	74	81	72	73	82
Closed	40	62	78	39	74
TOTAL	114	143	150	112	156

Of the 114 enquiries received during the year, 74 subsequently resulted in the completion of our application form and have proceeded to review.

Of the remaining 40 enquiries received during the year, we identified five as being premature, in that the individual had yet to complete the first two stages of the SRA complaints procedure, and two were out of time (each being only referred for Independent Review some considerable time after completion of SRA's internal procedures). The remaining 33 enquiries are those where the enquirer appeared to be eligible but has either decided not to proceed with an application or has yet to return a completed application form.

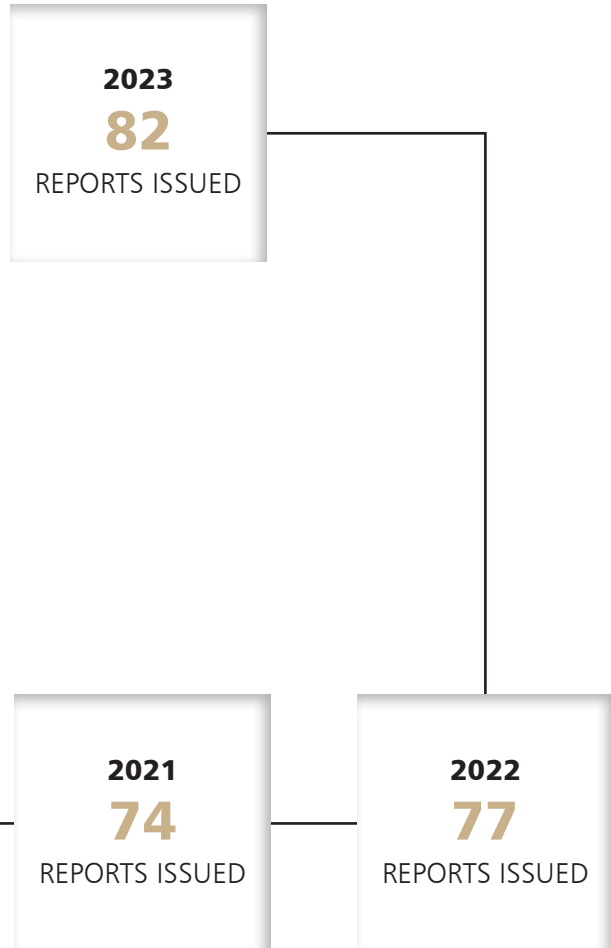
Overall, the number of cases referred for Independent Review remains very small in the context of the SRA's considerable workload. The SRA regulates some 157,000 practising solicitors and each year it receives some 10,000 reports of concerns about their behaviour or conduct.

APPLICATIONS

■ Of the 74 enquiries for which application forms were completed in the year, 72 resulted in the issue of Independent Review reports during the year, whilst the remaining two were still going through the process and have resulted in reports after the year end.

In addition, reports were finalised and issued in relation to 10 applications where we were first contacted during 2022/23.

Hence, a total of 82 Independent Review reports were issued in the year. This is consistent with the number of reports issued last year (2021: 77 reports).



TYPES OF COMPLAINTS

REGULATORY DECISIONS

■ Although consideration of the SRA's regulatory decisions is outside the scope of the Independent Review process (and the SRA's published complaints policy expressly states that we cannot overturn regulatory decisions), our analysis of the 82 reports issued in the year showed that, in almost every instance, a complainant's dissatisfaction about a regulatory decision lay at the heart of their complaint and, in the majority of instances, that was all that was being complained about.

These complaints related to the following regulatory decisions:

	12 months to 31 Oct 2023	12 months to 31 Oct 2022	12 months to 31 Oct 2021	12 months to 31 Oct 2020	13 months to 31 Oct 2019
SRA decision not to take regulatory action after an allegation of misconduct against complainant's own solicitor	21	24	19	36	20
SRA decision not to take regulatory action after an allegation of misconduct against solicitor acting for complainant's opponent	44	40	40	55	28
SRA decision not to take regulatory action after an allegation of misconduct against another solicitor	8	5	5	6	6
SRA decision in connection with regulatory action against complainant (a solicitor)	9	3	6	8	3
TOTAL	82	72	70	105	57

Typically, complaints against an individual's own solicitor arose from concerns about service quality issues, which are the remit of the Legal Ombudsman and to whom the SRA had already signposted the complainant. Many complainants perceived, however, that, irrespective of the Legal Ombudsman's involvement, their own experience raised ethical issues which they believed required full investigation leading to regulatory action by the SRA; and they were disappointed that the SRA had declined to take matters further, generally because the SRA had taken the view that their Assessment Threshold Test had not been met.

Complaints relating to the conduct of opposing solicitors generally arose where an individual had raised concerns with the SRA about the conduct of the solicitor acting for their opponent in litigation. Again, the referral to Independent Review arose from disappointment at the SRA's declining to take regulatory action.

Of the eight referrals arising from complaints about other solicitors, six concerned the conduct of individual solicitors in their dealings with third party clients; one related to the conduct of a firm in an internal employment matter; and the other to the conduct of a solicitor in a social setting.

Of the nine referrals from solicitors complaining about the SRA's conduct in relation to their own situation, five were from solicitors who believed that they had received overly robust and unfair treatment during the SRA's investigations into clients' complaints about themselves (of which only one matter had resulted in any regulatory action being taken against the solicitor concerned); whilst the remaining four complaints were from overseas applicants for the Solicitors Qualifying Examination who had encountered difficulties in the process.

In the majority of the above situations, the origin of the referral for Independent Review clearly arises from differences of perception between the complainant and the SRA. Unsurprisingly, individuals who perceive that they have been wrongly treated by a solicitor can feel very strongly about the situation and they look to the professional regulatory body to intervene, both to remedy their own situation and, commonly, to commence disciplinary proceedings.



However, consistent with the Legal Services Act, the SRA takes a different view of its role. In particular, it adopts a risk-based approach, focussing its resources on dealing with concerns that might call into question whether a solicitor or firm should be practising the law. It does not, therefore, take regulatory action in relation to each and every failing reported to it; nor does it intervene in disputes or undertake investigations on behalf of individual complainants.

The SRA's approach is clearly described in its own published material about complaints against solicitors and is regularly addressed in response letters issued by the Corporate Complaints Team. Our own communications, including the application form, also make it clear that the Independent Review process cannot be used to overturn an SRA regulatory decision, but nevertheless this is commonly what we are asked to do.

We have identified two reasons for this situation:

- The general public still do not appear to fully understand the SRA's regulatory role, and the important distinction between what are actually two quite separate procedures: the handling of complaints about the SRA's service and the investigation of alleged misconduct by solicitors. Rather, many complainants come to the SRA with an expectation that the SRA will address their personal situation whereas, in contrast, the SRA's approach to reports about solicitors is that they provide important information that assists the SRA in undertaking their own assessment of a solicitor's fitness to practise.
- We regularly see within complainants' referrals to us that they feel very strongly about their own situation and will turn to any organisation who they perceive as being in a position of authority and, therefore, able to assist them. Where, however, the matter is not something on which the organisation is able to assist, it is not uncommon for the organisation itself, and its personnel, then to be subjected to criticism and complaint.

From our review of their dealings with individual complainants, we have observed that the Corporate Complaints Team are clearly explaining the way that risk-based regulation works, with a risk assessment using the SRA's three stage Assessment Threshold Test being undertaken before any allegation is investigated fully. Unfortunately, this has not led to any reduction in the number of out-of-scope complaints which come to us for Independent Review, not least because complainants typically perceive their own concerns as being sufficiently serious as to warrant regulatory action against a solicitor.

It may be that this situation is an inevitable consequence of complainants' strength of feeling and that nothing more may be done to allay concerns. We would recommend, however, that consideration be given to clarifying the purpose of inviting reports about solicitors even further in the SRA's initial responses.

In addition, the SRA might reflect on whether it is helpful that some 70% or so of the reports it receives each year are characterised in its annual data under the label "investigation not necessary" as this phrase might easily be taken to imply that the SRA has done nothing in response to a report. We would recommend that consideration be given to adopting terminology which more positively reflected what the SRA did do rather than what they did not do.



OTHER ASPECTS OF COMPLAINTS

■ Moving beyond complaints about regulatory decisions, the following table summarises the other types of issue that we were asked to consider*.

	12 months to 31 Oct 2023	12 months to 31 Oct 2022	12 months to 31 Oct 2021	12 months to 31 Oct 2020	13 months to 31 Oct 2019
Delay / length of investigation / failure to respond to letters	20	15	15	26	23
Failure to respond fully / failure to explain	8	7	2	13	11
Poor quality of responses	10	13	5	5	7
Failure to keep complainant informed	-	2	3	4	5
Bias / discrimination	7	7	2	10	6
SRA policy	-	5	5	3	3

DELAY

■ Delay is the most common cause of complaint that we encountered in our review. Generally, these complaints related to the SRA's initial assessment and follow up of information provided about a solicitor rather than about any aspect of the formal complaints process. On a few occasions, these concerns were accompanied by an additional complaint that the SRA had not kept the complainant properly informed of progress in a case.

Delays in responding to concerns raised by individuals who have gone to the trouble to report their concerns to the SRA are clearly undesirable, but they had clearly taken place in many of the cases that we reviewed. In every instance, however, those delays had already been appropriately acknowledged, explanations given and, in some cases modest ex gratia payments offered by the Corporate Complaints Team. Where appropriate, they had also acknowledged and apologised for any failure to provide updates to the complainant.

As in any large organisation, there were inevitable changes of personnel and isolated errors which contributed to

* There can be several grounds of complaint in any given case

some delays, but the most frequent contributing factor cited in complaints responses was case complexity. Many of the more serious complaints raised against solicitors require very considerable evidence gathering by the SRA, including receiving responses from the individuals complained about, before determining what action to take. Inevitably, complex investigations of this nature can take some considerable time, but this may not always be understood by an individual complainant, particularly one who is primarily concerned about their own individual situation rather than any broader regulatory concern. Nevertheless, it is important that the SRA provides regular updates so that complainants' expectations are appropriately managed.

In previous years, we have seen technology issues cited as an explanation for delays. However, more recently we have seen the impact of SRA having upgraded its case management systems, and we can see that the SRA now has a very good handle on timescales once a matter reaches the stage of being a complaint about the SRA (i.e. stages 1 and 2).

QUALITY OF RESPONSES

■ A significant number of the cases referred for Independent Review contained complaints about the quality of the SRA's responses to complainants; this included complaints that certain issues had not been addressed or, alternatively, that some conclusions had not been properly explained.

Our reviews identified a number of occasions where the stage 2 response identified the need for a clarification or addition to what had been included within an earlier stage 1 response from the unit concerned. However, in the majority of those instances, any shortcoming in the stage 1 response had already been identified and addressed in the stage 2 response, so there was nothing more that our Reviewer needed to add.

POLICY ISSUES

■ Unusually this year there were no complaints about SRA policy issues.

BIAS & DISCRIMINATION

■ There were seven cases which required us to consider allegations of bias and discrimination by the SRA.

Two of these instances arose from complaints that the SRA had not made sufficient reasonable adjustments to cater for individuals' disabilities; one complainant alleged that the SRA had been influenced by the fact that he was foreign born; one that the SRA had wrongly taking into account prior dealings with the complainant; one from a solicitor alleging that the SRA was biased against him; and one from an allegation that the SRA's decision not to pursue regulatory action against a solicitor arose from bias and discrimination against the complainant. There was also one complaint that an SRA official had used inappropriate language when speaking with a complainant.

We did not uphold any complaints on this topic. Furthermore, from our broader casework reviews, we found no evidence of any actual bias or discrimination by the SRA, and we concluded that each individual matter was addressed fairly.



OUTCOMES OF OUR CASE WORK

■ Although it is customary for Independent Reviewers to categorise the findings of their work in terms of the proportions of complaints that were or were not upheld, we do not regard such bare statistics as providing a helpful summary of our work. Rather, we prefer to focus on (a) the extent to which our work identified a shortfall in the service provided to the complainant which required further action to remedy it; and (b) the extent to which our work identified suggestions for improvements in SRA's complaints handling practices.

We can, however, report that within the 82 Independent Review reports issued in the period, we found no failings and had no recommendations to make in 73 (i.e. 89%) of those reports. This is very similar to the 90% figure reported last year.

Amongst the nine recommendations that we did make, eight dealt with case-specific aspects where we considered that the SRA's responses had not been as clear or comprehensive as they could have been. The remaining recommendation addressed the importance of having clear procedures for handling complex case where more than one SRA officer may be involved.

Where our Independent Reviewer concludes that a complaint has been upheld, one of the remedies which was available to them to recommend is an ex gratia payment in line with the SRA's special payments guidance*. During the year under review, our Reviewers did not make any recommendations for specific payments but there were two instances in which it was suggested that the SRA might wish to re-visit their own decision about whether a payment might be appropriate.



* As of 18 March 2024, the SRA no longer offers ex gratia payments for poor service. As a Regulator, rather than a commercial organisation, an apology and a commitment to improve is now its standard approach.



OVERSIGHT

■ In order to fulfil our remit to provide independent oversight of the way that the SRA carries out their complaints handling function, we supplement our work on individual complaints by undertaking reviews of case files from both stage 1 and stage 2 of the SRA complaints process:

STAGE 1 COMPLAINT REVIEWS

undertaken within the business area where the complaint arose

STAGE 2 COMPLAINT REVIEWS

undertaken by the Corporate Complaints Team

During the course of the year, our audit work has covered individual files drawn from both stage 1 and stage 2 processes and covering a range of units within the SRA, including Anti-Money Laundering, Authorisation, Client Protection, Contact Centre, Equality Diversity & Inclusion, Information Governance & Compliance, Investigation and Supervision, and Legal.

The overall finding from the audit is that we observed a consistently high standard of complaints handling at both stage 1 and stage 2. In particular, we found the stage 2 letters, which represent the last step in the SRA's internal process before any Independent Review, to be of consistently high quality, being well written and appropriately empathetic. It is pleasing to report that not only have these standards been maintained this year, but we noted an even higher level of quality, particularly as regards the clarity of explanations being offered by the Corporate Complaints Team.

Overall, our assessment of the stage 1 responses was that they were of a consistently good standard, albeit not as strong as those produced by the specialist Corporate Complaints Officers, but with the main difference being that occasionally points of detail were omitted in stage 1 letters or the author had not picked up a particular nuance within a complaint. However, as in previous years, there were no letters which we would have characterised as 'poor'.



ABOUT THE INDEPENDENT REVIEWER

REMIT

The Independent Reviewer service is available to anyone who has previously made a complaint to the SRA and is dissatisfied with the response.

We can investigate the manner in which the SRA has dealt with a complaint, and we can provide advice and recommendations to improve the SRA's systems and practices for dealing with complaints. These may include methods for addressing failings particular to a complaint or generally to improve complaint handling procedures.

We may decide not to review a complaint in the following circumstances:

- The original complaint was made before our appointment
- The complaint is outside our time limit for referral
- The complaint is not within our remit. For example, we cannot review a complaint about a regulatory decision, although we can review complaints about the way that decisions are reached
- It appears that there has already been a full investigation by the SRA and appropriate redress has been offered
- It appears that there is an opportunity for resolution between the complainant and the SRA. If we think that resolution is possible, we will discuss this with the complainant and the SRA to see whether the outcome the complainant is seeking is reasonable and can be agreed

- It appears that a full review would be unreasonable or disproportionate. For example, if the SRA does not accept there has been poor service because a letter to the complainant was sent a few days later than expected and this has not caused any particular loss or inconvenience to the complainant, it would not be a reasonable or proportionate use of resources for there to be a review
- Where the case has already been considered by another independent competent authority (such as the Legal Ombudsman), it will not be appropriate for us to consider the matter again.

For those cases that we decide are appropriate for a full review, we will conduct a review of the papers to consider whether:

- the investigation was thorough and fair
- all the relevant facts were taken into account
- the conclusions reached (in respect of complaints about the service provided by the SRA) were reasonable and properly explained; and
- the investigation was handled efficiently, without unnecessary delay.

POWERS

Where a complaint has been upheld or partially upheld, we will provide a full acknowledgment and explanation for any poor service and may require the SRA to provide one or more of the following remedies:

- an apology appropriate action to rectify the situation for the complainant, such as an extension of time to respond to a deadline
- appropriate action to improve the SRA's practices or procedures
- an ex gratia payment made in line with the SRA's special payments guidance.

The Independent Reviewer's decision is final and represents the end of the SRA complaints handling process.

PROVIDER ORGANISATION

- The Independent Review service is run by CEDR, the Centre for Effective Dispute Resolution.

CEDR is an independent, non-profit organisation with a mission to cut the cost of conflict and create choice and capability in dispute prevention and resolution. Since its founding in 1990, CEDR has worked with 300,000 parties in commercial disputes and helped resolve over 100,000 consumer complaints across 30 sectors.

It operates a number of mediation and adjudicative processes for local and national government, and for other public sector parties, as well as those in the commercial sectors. It also provides training and consultancy in mediation, conflict management and negotiations skills.

THE SRA INDEPENDENT REVIEW TEAM IS:

- **Graham Massie** - Senior Independent Reviewer
- **Suzy Ashworth**
- **Laurence Cobb**
- **Eisei Higashi**
- **Helen Holmes**

