



**Independent
Complaint
Resolution
Service**

**ANNUAL REPORT
FOR THE SOLICITORS REGULATION AUTHORITY
2011 – 2012**

Fair, impartial, effective

www.icrservice.co.uk

Introduction

This has been the second year in which ICRS has acted as the final stage of the SRA's complaints procedure. During this year we have dealt with a greater volume of complaint referrals and have built up a stronger knowledge of the work of the organisation.

The complaints referred to us represent a very small proportion of the people who have contact with the SRA during the course of the year, including solicitors or their customers, former solicitors or people hoping to become solicitors. The contacts and issues handled by the SRA run to many thousands and very few result in complaints. In general there is a high degree of satisfaction with the work of the SRA and, even when complaints are raised, the SRA succeeds in resolving the majority internally.

The ICRS role comes into play only once the SRA has completed its own internal complaint review process and a final letter has been sent to a complainant. Initially this was not appreciated by many people and a number of complainants turned to us before the SRA had properly dealt with matters. This year there has been a welcome reduction in the number of premature referrals and of requests for advice and assistance from people who are unsure of where to turn next. This reflects better knowledge and understanding of the ICRS service and how it fits in with the SRA's internal complaints process, on the part of the SRA's own staff, users of its services and the general public. We are also pleased to note that the SRA has continued to develop guidance to explain how complaints progress internally. We are hopeful that this will help to reduce the frustration felt by some complainants when trying to engage with the system.

In order to reduce the need for personal contact, the SRA provides on-line advice and information for solicitors and the public on issues that matter to them. It also publishes a wide range of guidance on its own role and activities that help people understand what to expect from contact with the SRA. Commendably, whilst internal complaints procedures are robust, the Inclusion Directorate (which responds to complaints at Stage 2 of the internal complaints procedure) has sought to develop a more customised approach to dealing with complaints

arising in different business areas, for example, within the investigation and regulatory teams. We are pleased to acknowledge these efforts to offer a good service, which meets recognised quality standards for complaint handling.

The professional relationship between the SRA and ICRS continues to be cordial and constructive. The SRA remains keen to learn from the independent review process and to place value on our role in making systemic recommendations, as well as in complaint settlement. We are pleased to note that, in general, the SRA has responded directly and swiftly to the recommendations made in our complaint review reports. This annual report includes several examples of recommendations that have had a positive impact, either by providing redress to individuals, or helping the SRA to improve its procedures and reduce the risk of problems and complaints arising in future.

It is a positive sign that several of the customer service issues identified in last year's annual report have been addressed by the SRA and are either no longer presenting problems, or are causing fewer complaints to arise. There are welcome indications that confusion regarding the respective roles of the SRA and the Legal Ombudsman Service may be reducing. However, as noted within this annual report, there is no room for complacency, particularly since there remains some misunderstanding about the SRA's own role amongst people who wish to raise concerns about solicitors. Our experience from complaints we have reviewed is that people often hope for a more personal and responsive form of engagement with the SRA, that is perhaps more suited to an ombudsman or complaint handling organisation rather than a regulator. Often the answer to this perennial problem for all regulators of how best to respond to informants, lies in the quality of their public information and personal communication, and our experience is that the SRA is getting better at both.

ICRS is pleased to note that our contractual relationship with the SRA has been confirmed for the coming period and this should provide consumers with confidence that, should the need arise, their complaints will be handled by an independent, knowledgeable and experienced review service.

The ICRS service

ICRS is an independent complaint review and settlement service. We can review complaints made about the SRA after 1 October 2010, if the complainant remains dissatisfied with the response they have received through the SRA's internal complaints procedure. We aim 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

It is important to note that ICRS cannot act as an appeal route against statutory regulatory decisions; nor do we have any authority to recommend overturning such decisions. 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 own policies and procedures or to treat customers properly and fairly.

If the complainant wishes to refer their complaint to ICRS, they can do so via the SRA or directly. When ICRS receives a direct referral we contact the SRA to confirm that the internal complaints process has been completed. If this is confirmed we ask for a copy of the complaint file. On referral, we will consider the file together with the information received from the complainant. Initially we consider matters to see if there is a reasonable opportunity for a resolution by agreement between the complainant and the SRA.

“ I would like to thank the ICRS very much for resolving my complaint against the SRA...I would like to give you some very positive feedback in recognition of the way that ICRS were so helpful and understood the problems so quickly and so easily. I didn't have to explain it a dozen times. It's very refreshing (and very rare) to find that level of awareness and comprehension. (Complainant)

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 a review would be unreasonable or disproportionate.

When a complaint is upheld or we identify other concerns, we can 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 settle matters finally for both the complainant and the SRA. Even if a complainant is not happy with the outcome of ICRS review, we try to understand their perspective and ensure that they end up with a better understanding of what happened in their case and why.

“ I am glad that someone at last sees my point but I suspect it will change nothing. I am left disillusioned by the legal 'profession' and will be very wary of them in the future. (Complainant)

ICRS is also able to offer people advice and assistance to help them to resolve matters informally or to explain how they can take forward their complaints in the appropriate way.

Feedback and complaints

ICRS welcomes customer feedback and complaints as an essential part of helping to improve our service. All complaints are taken seriously and responded to quickly by an ICRS Reviewer who has not dealt with the complaint previously.

ICRS tries to satisfy complainants and the SRA that we have done our utmost to provide a good service and where reviews are undertaken, to provide a comprehensive and just report. Not everyone is happy with the outcome of review, but it is heartening when people take the time and trouble to let us know that they are happy with our service. This report includes some examples of this feedback.

When people refer their complaints to ICRS they can expect to be treated with:

Respect

We treat people as individuals and take their concerns seriously.

Courtesy

We communicate in an open and friendly manner. We expect similar responses from complainants and do not accept abusive or inappropriate behaviour.

Honesty

We are clear about the limitations of our role from the outset and will discuss the likely outcomes that can be achieved from review.

Objectivity

Our Reviewers reach decisions after careful consideration of the evidence provided by the complainant and the SRA. We compare what has happened against the SRA's own service standards.

Flexibility

We recognise that a 'one size fits all' approach is inappropriate when dealing with individuals and tailor our service to meet people's legitimate needs.

Plain Language

We try to communicate in language that the complainant is comfortable with to ensure our messages are understood.

“We would like to thank you for your Report. We found it to be fair and understanding under the restrictions of which you speak. We were particularly impressed with the analysis of what had gone wrong in our case... (Complainant)”

ICRS service principles

As members of the Ombudsman Association, ICRS Reviewers live up to the Principles of Good Complaint Handling in the course of its work. These are:

Clarity of purpose

A clear statement of the ICR's role, intent and scope

Accessibility

A service that is free, open and available to all who need it

Flexibility

Procedures, which are responsive to the needs of individuals

Openness and transparency

Clear and helpful information about our service

Proportionality

Process and resolution that is appropriate to the complaint

Efficiency

Meeting challenging standards of good administration

Quality outcomes

Complaint resolution leading to positive change

Once again this year our office sought independent accreditation of our complaint handling processes. We are pleased to record that we were successful in retaining the BSI award for the quality of our Complaint Management System.

“ I have to admit that I'm so pleased with your assessment of my case. You are truly independent and very impartial (Complainant)

Facts and figures

The following tables provide statistics on the number of referrals received by ICRS during the 15 month period 1 October 2011 to 31 December 2012. The period covered by this report has been extended to bring ICRS's annual reports into line with the SRA's own accounting period. They include information on how the complaints were made and how the work undertaken has progressed.

CASES RECEIVED			
Quarter	Complaint by Solicitor	Complaint by Consumer	Total Received
Oct–Dec 2011	5	16	21
Jan–March 2012	5	17	22
April–June 2012	5	16	21
July–Sept 2012	6	18	24
Oct–Dec 2012	2	11	13
TOTAL	23	78	101

As can be seen, the volume received by ICRS each quarter has varied quite considerably. The majority of complaints received have related to concerns by consumers of the SRA services while 25% have been submitted by solicitors unhappy with the regulatory procedures of the Authority. We have calculated that the average time taken to complete a case is 4 days.

CASES CLOSED AFTER INITIAL REVIEW		
Quarter	Advice and assistance	Not pursued – regulatory decision
Oct–Dec 2011	18	2
Jan–March 2012	9	19
April–June 2012	9	10
July–Sept 2012	4	16
Oct–Dec 2012	17	13
TOTAL	57	60

During 2011-12 a proportion of contacts with ICRS related to enquiries which were not pursued to independent review. This decision was taken after an initial review of the case. These consisted of cases where ICRS provided advice and assistance to the potential complainant. There has been an increase in contact for ICRS, mainly from consumers, relating to unhappiness with regulatory decisions taken by the SRA as well as with the way they were dealt with. Although regulatory decisions per se do not fall within the remit of the independent review, nevertheless it can be time consuming to get to the nub of the complaint and what outcome people would find satisfactory. Where it would be disproportionate to review a complaint because the main issue falls outside of our remit, or we cannot achieve an outcome that the complainant would find satisfactory, we do not seek to adjudicate or report on the outcome of our investigation. We have calculated that the time taken to respond to these enquiries has been approximately 36 days during the 15 month period.

Finance

The following table gives a breakdown of the costs of the service provided by ICRS during the 15 months from 1 October 2011 to 31 December 2012.

ACTIVITY COST
1.10.11 – 30.09.12 Advice and assistance, complaint and overview review and reporting, including all administrative costs: £119,000
1.10.12 – 31.12.12 Advice and assistance, complaint and overview review and reporting, including all administrative costs: £19,998

We aim to keep administrative costs to an absolute minimum, and to focus resources on specialist complaint and overview reporting. The average cost per completed case during this 15 month period was £1,544 which we believe represents excellent value for money, given the complexity of many of the complaints investigated. The ICRS overview service complements our casework and enhances the overall value added.

Key Themes of Case Review

A) Communication

As in 2010-11 the theme of communication has emerged as a significant cause of concern to SRA customers. Issues regarding the quality of the SRA's personal communication with complainants have been raised in a high proportion of the complaints referred to ICRS during the period covered by this report. In this section we give some specific examples of concerns that have been raised.

Members of the public who have reported alleged misconduct on the part of solicitors to the SRA continue to express dissatisfaction with the SRA's policy of not routinely providing them with information about the actions it has taken and the outcome of its involvement. Many have been dissatisfied with the tone and content of the SRA's standard letters that they regard as dismissive.

Misunderstanding of the SRA's regulatory role is often a feature of these complaints. We are pleased to report that, in response to our previous recommendations, where appropriate the SRA is now showing more willingness to make exceptions to its policy of not engaging with informants directly to give them specific information. Further, the content of standard letters has improved so that more information is given early on about the way that the SRA deals with reports from informants. As a result of these improvements, unlike last year, most complaints on this issue have not been upheld. In our reports we have tried to help people understand the role of the regulator better and the restraints it faces. However, even where people do understand the limitations on the regulator, they may still express their view that things should be different.

“The ICRS report highlights the current problems and issues surrounding regulatory arrangements for making complaints as a third party about solicitors. I support her observations in this regard. She finds that the SRA acted in accordance with its policies and procedures. However the point I wish to make strongly is that it is these very policies and procedures of the SRA that I wish to challenge.... I appreciate that these issues lie outside the remit of the ICRS (Complainant)

Case study

Mrs A contacted the SRA to report her concerns about bullying conduct and delaying tactics by solicitors representing the other party in court proceedings. The SRA sent a standard acknowledgement letter, thanking Mrs A for her report but indicating that it would not keep in contact or report back its decision regarding the solicitors' conduct. Mrs A complained that the SRA had acted in an 'autonomous manner' and had completely failed to respond to her serious concerns. In response to her complaint the SRA explained its role as regulator and its outcomes-focused approach to regulation, which targets resources at identifying tackling risks to the public and does not include reporting back to individual members of the public. With regard to Mrs A's report of misconduct, the SRA said that it had been decided to take no action at present, but that the information would be kept on record for future reference. Mrs A asked for an independent review by ICRS, comparing the SRA's approach very unfavourably with that of the Legal Ombudsman.

ICRS found that the SRA had dealt with the matter according to its published policies and procedures, and was satisfied that, in response to Mrs A's complaint, the SRA had been willing to make an exception to normal practice and to provide some specific feedback on the conduct that had been reported. It was clear, however, that Mrs A's expectation was that, like the Legal Ombudsman, the SRA would be able to take up her concerns about the solicitors on her behalf. When this did not happen it significantly added to her dissatisfaction with the SRA. ICRS highlighted to the SRA the importance of making sure that members of the public fully appreciate the difference between its role as regulator and the complaints-handling role of the Ombudsman.

Solicitors subject to investigation have also complained of poor communication.

Case study

Mr B, a solicitor, complained about the way in which the SRA had handled an investigation and subsequent intervention into his firm. ICRS was satisfied that in general the SRA followed appropriate process, but found that more could have been done to keep Mr B informed of the progress of the investigation and to prepare him for the likely outcome. The result of the inadequate communication on the part of the SRA was that the decision to intervene seemed to Mr B to come out of the blue, adding to the inevitable distress he experienced. We welcomed the SRA's new approach to regulation, in which it aims to work with solicitors to facilitate compliance with SRA principles. This should help to ensure that things are handled differently in the future, so that solicitors subject to investigation will understand the investigation process better.

B) Delays

A number of the complaints upheld by the ICRS in this year have arisen as a result of delays in the SRA's own internal processes. In particular, many have arisen because of failures to meet their own published timescales. Where this has happened, the SRA has not always been diligent in keeping the complainant informed of the progression of an investigation.

Case study

Mr C was a purchaser in a conveyancing transaction in which the solicitors for the seller gave an undertaking to retain £500 from the proceeds of sale to pay for repairs to the property. They subsequently failed to release the retention monies. Not long afterwards, the firm was intervened into by the SRA and agents were appointed. A claim was made to the Compensation Fund in December 2008. It was not until November 2009 that a final decision was taken that there was insufficient evidence to prove the claim but Mr C was not informed about this until 7 January 2011. Meanwhile, in October 2009, Mr C complained to the Legal Complaints Service (LCS) about the solicitors concerned. This was referred to the SRA in October 2009. Following some delays on the part of the SRA, the SDT hearing took place on 27 June 2011. Responding to the complaint the SRA's Complaints Officer identified several instances of poor service for which she apologised on behalf of the SRA and offered a small special payment. ICRC found that although an apology was given for some delays, there were other delays not recognised and, in particular, a failure to keep Mr C informed of what was happening over a period of years in respect of his claim. Moreover Mr C wrote several complaint letters to the SRA and did not get replies. We upheld these complaints and recommended a further apology.

Case study

Mr D's firm was subject of an SRA investigation. The investigation started in mid 2010 but it was not until summer 2011, following a complaint from Mr D, that it was decided that there had been no breach of the Solicitors' Code of Conduct. Mr D complained of delay and poor communication. Both were admitted by the SRA and sincere apologies were offered. Mr D referred the complaint to ICRS because he felt that the SRA had not recognised how much the delays and lack of information had added to the distress and inconvenience that the investigation had caused. ICRS noted that the SRA had taken Mr D's complaint seriously and had tried to respond constructively, but concluded that it had not fully taken into account Mr D's perspective of what had occurred and the effect this had on him. We recommended that the SRA should consider the possibility of further specific redress for Mr D. A systemic recommendation arose from our investigation of this complaint that the SRA should consider publishing more information on its website about its investigation process, including an indication of the likely timescales involved, in order to help manage people's expectations better.

C) Discrimination

During this year the ICRS has investigated a small number of complaints which alleged discrimination on the part of the SRA. These have related to the organisation's treatment of complainants who have disabilities, and to alleged discrimination because of race. We are aware that the SRA takes its Equality and Diversity responsibilities seriously, and makes every effort to ensure the best practice is maintained at all times in these potentially contentious areas.

The SRA Equality Policy requires clear, written guidelines which explain the way in which reasonable adjustments can be made for those with disabilities, and it is important that there is clarity and transparency in how the SRA implements these guidelines.

The way in which SRA staff respond to allegations of discrimination is also very important in shaping the view that the complainant will ultimately have of the organisation. It is important that all discrimination issues that are raised with the SRA are dealt with courteously and efficiently and, wherever possible, resolved in the helpful replies given to the complainant. In the cases we have reviewed we have found much that was positive in the SRA's practice, but also identified some areas for improvement.

Case study

Mr E made a report to the SRA regarding a solicitor. He was initially dissatisfied with what he saw as a lack of progress on the part of the SRA in dealing with the matter and was then particularly upset by being sent a User Survey and Diversity Monitoring Form to complete. He was later informed that the SRA's file relating to his report had been closed. Mr E believed that he was being discriminated against by the SRA because of his ethnicity. He complained to ICRS that there was clear bias in the way that the SRA had dealt with matters. He felt that the fact that he was asked to complete a diversity survey questionnaire showed that the SRA wished to use this information to deal with him in a particular way.

Mr E complained to the SRA and asked why it felt it appropriate to assign his report to a person of a particular ethnicity. In response the SRA noted that the matter had been handled in accordance with usual procedures and was treated no differently to any other report. We found that matters were indeed handled in the usual way and there was no evidence to suggest that the decision reached was made on anything other than a conscientious evaluation of his report. We were satisfied that the Diversity Survey was not linked with case handling, however we recognised that Mr E was caused genuine concern by thinking that the case allocation system could be biased against him. We noted that it is important to ensure that any such a perception is avoided. Whilst satisfied that the SRA's case allocation methodology is suitable for purpose, it is good administrative practice for all procedures to be checked to ensure that they are working as intended. We recommended the SRA consider how assurance can be given that there is no opportunity for prejudice or bias in its case allocation process.

Case study

Mr F suffered from chronic migraines and, in view of his need for medical treatment, he asked for additional time to provide information to the SRA. The SRA caseworker was open to providing extra time if required, but asked for further information about the treatment that Mr F was undergoing to show what was needed. Mr F complained that this request was offensive and unreasonable and that he had no wish to share personal information about his medical condition with the SRA. When ICRS reviewed the complaint we were satisfied that the SRA was entitled to ask Mr F to provide further general information, but suggested that as these are potentially sensitive personal matters, a 'softer' more customer sensitive approach would have been more appropriate. We recommended the SRA should consider how it can promote a more customer-focussed approach to seeking further information of this kind. We were pleased to note that the SRA responded positively to this by using a case example in its internal Inclusion Newsletter to emphasise to staff the importance of sensitivity in communicating information about reasonable adjustments.

Case study

Mr G had a disability that made it difficult for him to write. He told the SRA that he wanted to report the conduct of a solicitor and asked for the opportunity to discuss the matter on the telephone but, instead of a call, he received a standard format letter from the SRA thanking him for his report and indicating that the SRA would not keep in contact or report back its decision on the solicitor. He complained to the SRA, amongst other things, that he had been discriminated against. Following our review, ICRS was satisfied that the SRA responded positively to the complaint, apologising for failing to respond to his request and ensuring that he had the opportunity to discuss his concerns about the solicitor on the telephone. We were satisfied that, by this action, the SRA ensured that Mr G's report was treated as seriously as a report from someone without a disability. We noted, however, that when Mr G complained of discrimination, the SRA did not expressly recognise or respond to the feelings of discrimination that he described. We recommended that the SRA should acknowledge and apologise for this omission.

D) SRA's website

During the year we have noted that many of the complaints relating to the SRA's communication could have been resolved if the information held on the organisation's own website had been clearer and better presented. The website is the chosen vehicle through which the SRA seeks to publish and explain its policies to all its stakeholders. It also provides the organisation with an opportunity to clarify what these policies mean operationally. During this period we have investigated a number of complaints that raised issues regarding the paucity of information available on the website.

Case study

In October 2011 Ms H made a report against a firm of solicitors to the SRA. The SRA acknowledged receipt of the report and stated that it would not provide updates on actions taken for confidentiality and resource reasons, but the results of formal action are usually published on the website. In January 2012, Ms H contacted the SRA by email noting that there was no procedure by which a complainant could challenge anything that the SRA did. She asked for an explanation of her rights. She was particularly concerned that she would not be able to challenge any incorrect information, and felt that the SRA's system lacked transparency and balance and was unfair. Ms H complained to ICRS that she was given no opportunity to "pinpoint" the issues she wanted to be investigated, instead the Complaints Officer formed the complaint in a way that allowed her to provide misleading responses. In response, the SRA had accepted there was a failure to involve Ms H in formulating the complaint issues and an apology was given. When we reviewed the complaint we found that there had been considerable confusion in the way that matters were handled in relation to the distinction between her report against a solicitor and her complaint against the SRA. Ms H's frustration was added to by what she saw as poor communication on the part of the SRA. In this case, there had been clear delays in acknowledging correspondence and when Ms H tried to phone the SRA, she had had great difficulty in getting through to a member of staff.

We noted that the SRA should do more to make clear to those wishing to make contact by telephone or email what level of service they can expect in terms of timescales for response. It is fundamental to the role of the regulator that consumers should be able to make contact with relevant ease and bring their concerns about a solicitor's conduct to the attention of the SRA. The SRA's website notes how the SRA can be contacted by telephone or email but does not say what expectations people should have about the speed of response to their contact, or the efficiency of its systems. Given this, people are entitled to expect that it will be easy to contact the SRA by telephone using the numbers given on the website and that emails will be answered promptly. We recommended that the SRA consider making these response times easily available to consumers on its website information.

Case study

Ms J was a solicitor who chose to practice for only part of each year and was accustomed to applying for a Practising Certificate for half of the year at a reduced fee. In 2011 the SRA introduced an online system for Practising Certificate renewals, but as a result of serious IT problems, the renewal exercise was not completed until spring 2012. Annual practising certificates for 2010-11 continued to be valid until new certificates were issued. Ms J understood, as a result of a telephone call to the SRA, that her six month certificate would also remain valid and undertook some work on that basis. When she applied for a new certificate she was shocked to find that because of the work she had undertaken after the normal expiry date of her six month certificate, she was required to pay for a full year. In response to Ms J's complaint, the SRA apologised for the confusion and offered a partial refund of the additional cost. Ms J referred the matter to ICRS because she felt that she should have received full reimbursement of the difference between a 12 month and 6 month certificate. ICRS did not uphold the complaint as we found that the SRA's response had been reasonable in all the circumstances. We did, however, identify a shortage of guidance on the SRA's website about the option of applying for certificates for periods less than a year, and recommended that the SRA should consider publishing fuller information. We are pleased to note that this recommendation was accepted and fuller information is now available.

E) Relationship with other organisations

Again this year we have continued to receive referrals about a lack of clarity regarding the SRA's relationship with other organisations, particularly the Office of the Legal Ombudsman.

The fundamental reform in 2010 of arrangements for complaint handling in the legal sector continues to cause some confusion and dissatisfaction. Some of the cases we have investigated this year arose before the 2010 reforms and, not surprisingly, this added to the potential for confusion. In the view of ICRS it is important that the SRA makes clear the distinction between its role and responsibility and that of the Legal Ombudsman both to the general public and in each individual case.

Case study

In October 2011 Mr K reported the conduct of a solicitor to the SRA and complained to the Legal Ombudsman. The SRA confirmed receipt of his report by letter which stated that the complaint would be "carefully assessed" but no updates would be provided on what action if any the SRA may take. He later raised a further issue but received no acknowledgement of this. In February 2012 Mr K contacted the Complaints Team and asked for an update on what had happened to his report and that of the Legal Ombudsman. In response a Team Manager wrote to assure Mr K that the SRA would take action if it felt it necessary. She accepted that his calls and emails had not been responded to however he had been told that the SRA does not provide updates. She said that the Legal Ombudsman had not made a referral to the SRA. Mr K contacted the Legal Ombudsman to check when the referral had been made and was informed that no response from the SRA had been received to the initial referral, so the Legal Ombudsman had sent it again. Mr K then contacted the SRA again and asked to be kept informed of progress because he was concerned that the SRA might again 'lose' the Ombudsman's complaint. In response the SRA acknowledged that there had been a technical glitch in the referral system and so the Complaints Officer had contacted the Legal Ombudsman.

Mr K complained to ICRS that it was only by chance that he discovered that the SRA had not dealt with the referral the Legal Ombudsman had made. This had dented his faith that the SRA would carry out the investigation fully and properly, given that it was due only to his tenacity that their error was found out. On review we found that the referral from the Legal Ombudsman was not 'lost' but was not received by the SRA due to a technical problem between the two organisations. When Mr K provided information to the SRA about this, they did not refuse to look into it but took action to do so, which resulted in receipt of the referral. Whilst we did not uphold this complaint we recommend that the SRA makes every effort to ensure that the technical referral system between the Legal Ombudsman's Office and the SRA is working smoothly to ensure that problems of the kind that arose in this instance are not repeated.

“Turning to your report may I compliment you on its thoroughness. My concern, and I have to say of the SRA 'they just don't get it', is that it took three attempts (as you have identified) to make sure that the Ombudsman's referral to the SRA was received....I would like to mention that when my complaint was made to the SRA it followed a very long conversation with the Ombudsman's staff who stated that mine is a very serious case in their view and encouraged me to submit a complaint in tandem with their own because of its severity. (Complainant)

F) Signposting

As in 2010-11 we have found evidence of the occasional failure to identify expressions of dissatisfaction as complaints, and also of failures in internal signposting. We have identified a number of cases where the complainant has not been made aware of the second stage of the complaint process.

This has been particularly apparent to the ICRS in conducting our overview visits to the SRA (see the next section).

“Drafting your report must have involved a substantial amount of work. The report is comprehensive, accurate and thoughtful.
(Complainant)

Oversight Review and Reports

As part of our role in reviewing complaint handling within the SRA, ICRS carries out general overview visits during each year, when we review internal SRA complaint files, in order to monitor the quality of complaint handling within the organisation. During the first year of our work this review was conducted quarterly but it was agreed with the SRA in early 2012 that an 'in-depth' oversight review will be conducted twice yearly.

Each review is conducted in two parts:-

- a review of complaints where the response has been provided at Stage 1 of the internal complaints procedure
- A review of additional cases which have been through Stage 1 and progressed to Stage 2 of the internal complaints procedure

All the cases reviewed in this year related to complaints investigated between January and November 2012. In total 60 complaint files were reviewed, 36 at Stage 1 and 24 at Stage 2.

Key Findings

During the oversight reviews a number of issues emerged. One of the most notable features of this year's review was that we found that there was a significant improvement in the handling of complaints at Stage 1 compared with the previous year. In particular, the quality of the investigation undertaken by staff within the departments concerned. In addition, the quality, detail and tone of the replies sent from the Managers of these departments had improved very significantly. It was particularly pleasing that a number of comments identified in earlier reviews appear to have been taken on board and acted upon. In particular we noted that specific training of staff involved in complaint handling throughout the organisation had been undertaken and this was beginning to pay dividends in the quality of output.

As in the previous year, we found that the quality of the responses at Stage 2 of the internal procedure, that is by the dedicated Complaint Team, was of a very high standard. It is important that the skills and talents available within the organisation are promulgated more widely to all personnel who have direct contact with complainants or potential complainants, and it appears that the SRA has taken this seriously.

However certain areas for improvement were identified as remaining of concern. These included:

- a need for improved signposting to the next stage of the complaint procedure
- a need for care in managing and maintaining the quality of the information and data contained within files
- the remit and limits of the role of the SRA, in relation to its regulatory powers, and its complaint handling, require further clarification
- the procedure for managing the closure of complaints from persistent or abusive individuals is not always effectively implemented

Recommendation from the Oversight Reviews

Following on from our oversight reviews, a number of recommendations were made by the reviewer. These included:

- signposting should be mandatory at each stage of the complaints procedure
- complaint files require regular editing and chronological arrangement
- the role, remit and limits of the SRA should be clear to all complainants at the beginning of the process
- the SRA website should be used to clarify policy and procedures together with roles and responsibilities within the SRA
- the differing roles of the SRA, Law Society, the SRA and the Legal Ombudsman need further explanation, both within and outside the profession

Learning from Complaints

Systemic Recommendations from Case Review

As each individual complaint is reviewed, where appropriate, ICRS is able to make recommendations to the SRA. In some instances these reflect a desire to provide personal redress to the complainant, such as apologies for service failure. Other recommendations are designed to help the SRA to improve its procedures and complaint handling, in order to avoid similar problems and complaints from recurring. During this year we made a number of these systemic recommendations. The SRA recognise these as added value to complaint review and a key way of learning from complaints. ICRS recommendations this year included that the SRA:

- continues to provide clear communications regarding its role and its limitations, both within the profession and externally
- conducts regular monitoring of the content of its website to ensure all the information is relevant, current and clear
- conducts a comprehensive review of the information available on the website with the objective of maximising its potential
- reviews its reasonable adjustment guidelines relating to disabilities, ensuring that they are clear, practical and transparent
- where possible and appropriate, informs complainants of the outcome of assessment
- reviews the content of standard correspondence
- clarifies better initially the nature of the complainant's concern
- ensures that lessons learnt from specific complaints are incorporated into the handling and responses to similar issues in the future
- regularly monitors the progress of cases to ensure that progress does not stall
- ensures that communication with other offices associated with potential complainants are maintained and monitored

- adequately responds to all communication from representatives of complainants (including MPs)
- appropriately follows-up relevant comments made by the Legal Ombudsman
- provides clarification regarding the wider public duty of care placed on solicitors in their handling of their clients' issues
- provides more information on its website about the process for investigating misconduct, including some indication of likely timescales
- communicates better understanding of the personal effect on solicitors associated with investigation

ICRS is pleased to note that for the most part the SRA accepts our recommendations and seeks to take them forward. It has responded positively to recommendations for redress to individuals, and has also taken on board the broader, systemic operational recommendations. Examples of actions taken by the SRA as a result of our recommendations are:

- an apology provided to the complainant
- explanation to the complainant of problems that have arisen
- a review of standard correspondence
- a positive approach to providing information, where possible, on the outcome of investigations
- a regular review of content of the website, checking this against operational practices

Whilst the SRA is generally ready to provide an apology and explanation to an individual complainant, it is not necessarily so quick to follow up on systemic recommendations. We recognise that this delay is likely to be the result of the need for further internal consultation regarding the implications of such recommendations. We are promoting, however, a more structured approach on the part of the SRA to ensure that (a) each recommendation is considered within a specified period (b) the progress of any changes is monitored (c) feedback is provided to ICRS.

The monitoring of implementation of recommendations is a key feature of an independent reviewer's role, which ICRS takes seriously. This gives public assurance that the process is worthwhile and taken seriously by the SRA. For this reason, we have included in this report the feedback provided to ICRS by the SRA regarding the action it has taken to implement or progress recommendations made in our first annual report, 2010-2011.

We are pleased to see that genuine progress has been made which, in a number of instances, has resulted in significant operational or communication improvements within the SRA. However, we acknowledge that over the last few years and still today, the SRA is undergoing major reform, both in terms of process and IT. Given this, it is not always easy or possible to spare resources to undertake other work. For this reason, we appreciate that it is not always possible to respond as quickly as we would hope to some of our recommendations and we recognise the sincerity of efforts to react positively to them, wherever possible.

An example of this was seen in the SRA Inclusion Directorate's internal newsletter, Inclusion, which was published in July 2012. This is sent to all SRA staff. This particular edition contained an article on the role and remit of ICRS and the key messages arising from our complaint reviews. The leaflet also included examples of how the SRA has learnt the lessons arising from two complaints referred for independent review, and it included these two case studies which demonstrated how the operation of the internal reasonable adjustment policy had been informed by the complaint investigation.

We will of course continue to work with the SRA to identify those recommendations that can make a significant difference to the quality of the service it is able to provide. We are pleased to acknowledge our mutual interest in ensuring that 'customer service' issues remain high on the SRA's agenda if it is to retain the confidence of the public and the profession in its work as a regulator.

The following table represents the SRA's responses to the recommendations we made in the ICRS Annual Report last year, 2010-2011. This table demonstrates that the SRA has made very real progress in responding to systemic recommendations or fully explained why further progress cannot be made.

Recommendations from ICRS Annual Report 2010/2011

ICRS Recommendations 1

1. Provide realistic indications of the time a regulatory investigation is likely to take.

2. Consider steps to ensure that applicants for compensation fund payments understand from the outset the projected timescale for dealing with the application.

SRA Responses to Report

The SRA's approach to regulation has changed since the recommendation. Under Outcomes Focussed Regulation the SRA tries to engage constructively with firms/individuals and timescales will be mutually agreeable. Desk based investigations are no longer the default position, but where they do occur some timescales are provided on our internet site. It is not possible to provide precise timescales because each case will depend on its particular facts and the co-operation of firms/individuals.

A customer charter was in draft at the time of the recommendation and can be found on our website at <http://www.sra.org.uk/consumers/problems/solicitor-owes-money/claims-management-customer-charter/Claims-Management-customer-charter.page>. Precise timescales cannot be given however as an application will be affected by its complexity, the availability of information needed and how quickly third parties are able to provide any information requested.

Recommendations from ICRS Annual Report 2010/2011

ICRS Recommendations 1

SRA Responses to Report

3. Keep a record of pertinent conversations during the progress of a regulatory investigation.

It is business as usual for staff to keep records of pertinent calls but the recommendation serves as a usual reminder and feedback was provided.

4. Operate a triage system that ensures the swift progress of urgent matters.

A triage system had already been drafted at the time of the recommendation for the assessment of reports of misconduct to ensure urgent matters were prioritised before full risk assessment of reports.

5. Consider the need for guidance to ensure that, where appropriate, individual solicitors are promptly notified of allegations made against them to the SRA.

Our processes and procedures have changed since the advent of Outcomes focussed and risk based regulation. Regulated firms/ individuals are not informed of all reports received by us, but should patterns of concern emerge, we would engage with firms. With regard to those investigations that are more serious and conducted more urgently we have a comprehensive transparency policy that deals with disclosure of information. at <http://www.sra.org.uk/solicitors/enforcement/we-are-investigating-you/transparency-public-protection-and-reasons-for-investigations.page>.

Recommendations from ICRS Annual Report 2010/2011

ICRS Recommendations 1

SRA Responses to Report

6. Consider the apparent tension between the SRA's broad commitment to transparency and its response to informants, and how this can be managed.

Although the SRA does not routinely provide information to those who report information about firms and individuals, we do when requested and when appropriate provide further information.

7. Improve transparency with regard to Practising Certificate applications, by publishing examples of the factors taken into consideration in deciding whether or not to add conditions to Certificates.

There is general information on our website about practising conditions. Each case will be fact specific, however, by the end of 2013 we intend to publish all decision making criteria that would include the consideration of applying conditions to Practising certificates.

8. Consider the development of an informal decision review process, taking account of generally accepted principles of administrative justice.

This recommendation referred to those decisions (not adjudication decisions) that were made by members of staff to not investigate allegations of misconduct for example. When a complaint is made and decisions appear erroneous or procedures have not been followed, arrangements are made for review by technical members of staff.

Recommendations from ICRS Annual Report 2010/2011

ICRS Recommendations 1

SRA Responses to Report

9. Consider publishing a practice statement on how the SRA responds to requests for the SRA to forward correspondence to solicitors who are not contactable through other means.

This is being taken forward by the Contact Centre by way of adding a FAQ to the website, which will be delivered in quarter1 in 2013.

10. When dealing with complaints about the service provided by the SRA, ensure that all areas of complaint are addressed in responses.

Feedback is provided to appropriate members of staff on each matter of complaint that comes to stage 2 and 3 of the complaints procedure. In addition staff are provided with information and training on complaint handling on ad hoc basis.

If you would like to find out more about ICRS and the services we provide, please contact us:

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