

# **Handling complaints about the SRA**

## Consultation paper

Policy (Inclusion) Unit

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## Introduction

1. The Solicitors Regulation Authority (SRA) is committed to providing a high standard of service, dealing with everyone in a way that is fair, transparent, proportionate and free from unlawful discrimination. In carrying out our regulatory work, we deal with solicitors, members of the public who have made a complaint against a solicitor and others.
2. We recognise that we may not always provide the level of service that we would like and welcome the opportunity to consider and respond to any concerns that may arise.
3. We have prepared a draft policy<sup>1</sup> for handling complaints about the SRA, although it is not necessary to read the policy in detail in order to respond to this consultation, as we have explained the key parts of the policy in this document.

## Responding to the consultation

4. We are inviting responses to this consultation paper until **13 November 2009**.
5. You can respond online<sup>2</sup> or by downloading the consultation form<sup>3</sup> and emailing it to us.
6. You can also respond by post. For our email and postal addresses, please visit [www.sra.org.uk/contactus](http://www.sra.org.uk/contactus).
7. You can request further copies of the consultation form from our contact centre. Please visit [www.sra.org.uk/contactus](http://www.sra.org.uk/contactus).

## Background

8. To date, we have developed a number of different mechanisms for handling complaints about our service which vary from one directorate to another.
9. We have decided that a single complaints-handling policy across the SRA (which will include discrimination complaints) will make it easier for people to raise their complaints with us and will help us to manage and monitor our responses more effectively.
10. One of the key features of the proposed new policy will be the introduction of independent oversight—provided by the appointment of an independent reviewer to be commissioned by the SRA. This will be available alongside the current Legal Services Ombudsman and any other arrangements that may be set up by the Legal Services Board.

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<sup>1</sup> See [www.sra.org.uk/sra/consultations/3402.article](http://www.sra.org.uk/sra/consultations/3402.article).

<sup>2</sup> Visit [www.sra.org.uk/sra/surveys/complaints-policy.page](http://www.sra.org.uk/sra/surveys/complaints-policy.page).

<sup>3</sup> See [www.sra.org.uk/sra/consultations/3401.article#download](http://www.sra.org.uk/sra/consultations/3401.article#download).

11. The independent reviewer is intended to have two distinct roles:
  - to provide independent oversight of the way that we are carrying out our complaints handling function, and
  - to provide a final independent response for those complaints that we cannot resolve internally.

## The future regulation framework

12. The future of regulation for legal services is changing and will be led by the Legal Services Board, which was set up in January 2009 to oversee the SRA and the regulators of other legal service providers including barristers, legal executives and others.
13. We will be working closely with the Legal Service Board as its work develops, and will make sure that our complaints handling policy is fully compliant with any specific requirements which may be introduced.

## Equality impact assessment

14. We conducted an initial equality impact assessment on our current approach to complaints handling and the summary report of our findings is available.<sup>4</sup> We are undertaking a full equality impact assessment of the new policy—and this consultation exercise will inform that process.
15. In preparing the draft policy, we have taken on board the issues arising from the initial impact assessment, researched best practice, and carried out some pre-consultation work with key stakeholders (including partner organisations, the profession, consumers and staff). The equality issues that we have addressed at this stage are set out below.
  - **Accessibility** – We have tried to make the policy simple and easy to understand for everyone. We will ensure that disabled complainants are offered reasonable adjustments in using the complaints policy in accordance with our Reasonable Adjustments Protocol. We will consider whether we need to translate the policy into other languages.
  - **Dealing with discrimination complaints** – We recognise that it is important that we deal effectively with complaints of discrimination, providing a transparent and fair investigation, and offering a clear and reasoned explanation for our actions. We will make sure that discrimination complaints are dealt with sensitively by specially trained staff and the outcomes are monitored carefully.
  - **Promoting equality** – We need a complaints policy that is consistent and fair for everyone, and we must use the learning from handling

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<sup>4</sup> See [www.sra.org.uk/sra/equality-diversity/2278.article](http://www.sra.org.uk/sra/equality-diversity/2278.article).

complaints to help us identify and eradicate any discrimination that we may find.

- **Equality monitoring** – We will be monitoring our complaints work to identify the impact on equality and to identify any trends and use this to improve the way we work.

16. We will consider the outcome of this consultation to ensure that the final policy is revised and any adverse impact is addressed and minimised.

## **Aims and objectives of the complaints-handling policy**

17. The complaints-handling policy is intended to help us resolve complaints from people who have been directly affected by the way in which we have carried out, or failed to carry out, our work.
18. We have modelled our policy on best practice principles from the public sector, drawing in particular on the practice adopted by regulatory authorities. The policy has three main aims and objectives:
  - to provide a user-friendly way for people to complain about the service we have provided,
  - to provide us with a procedure that helps us to respond quickly and efficiently to complaints that we receive to achieve a satisfactory outcome, and
  - to help us monitor complaints that we receive, so that we can understand where we are going wrong and improve the way that we work.

## **The consultation questions**

19. Although we would welcome comments on any aspect of the draft policy, we have focused our consultation on five areas which are set out in the following paragraphs.

### **How we are proposing to respond to the complaints that we receive**

20. We are proposing a three-stage process—stages 1 and 2 are internal, and Stage 3 is an external independent review.
21. On receipt of a complaint, we will decide whether we will refer the complaint for a stage 1 response from the unit where the complaint arose or a stage 2 response from a central complaints team. We expect that the majority of cases will be referred for a stage 1 response—this does not mean these complaints are being treated any less seriously.
22. There may be a few cases that would be more appropriate for our central complaints team to provide a stage 2 response, for example:

- where the complaint is about the work of more than one unit in the SRA, it would be preferable for a single response to be prepared by the central complaints team; or
  - where the case is complex and/or is likely to take more than 10 working days for the unit to prepare a stage 1 response; or
  - where there is likely to be a significant impact on the SRA or on the complainant—for example, cases in which the outcome could affect the SRA’s work more widely than within the unit where the complaint arose or where the SRA is involved in related legal proceedings; or
  - where a stage 1 response from the unit would be inappropriate because there has been a serious breakdown of trust and confidence between the complainant and the unit.
23. Our investigation (whether conducted by the unit where the complaint arose or the central complaints team) will be paper based and will normally involve an officer reviewing the relevant case papers, consulting the SRA’s procedures and policies, and talking to the staff involved in the incident complained of. We will keep the complainant advised of progress and contact the complainant to confirm or clarify aspects of the complaint as required.
24. There will be very exceptional cases where we will offer complainants an opportunity to meet with us in person—for example, where this is agreed with our disabled complainants as a reasonable adjustment. Otherwise, our contact with the complainant will be in writing or by telephone as appropriate and taking into account any reasonable adjustments that have been agreed.
25. At stages 1 and 2, a complaint may be upheld, not upheld or partially upheld, and the complainant will be given written confirmation, with reasons, of all decisions made under this policy.
26. If the complainant is not satisfied with our stage 1 response, he or she can request the central complaints team to review the complaint at Stage 2. If a complainant is not satisfied at the conclusion of Stage 2, he or she can request an external review. We will ask complainants to tell us which part of the complaint outcome they disagree with, why and what they are seeking to achieve from the independent review.
27. The external reviewer will consider all requests and decide whether or not the case is appropriate for a full review. The independent reviewer may decide not to review a complaint in the following circumstances:
- Where the grounds of review indicate that the issue for review is of limited significance considering all the circumstances of the case. 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 Services Ombudsman), it may not be appropriate for the independent reviewer to consider the case again.
  - Where the SRA has upheld a complaint and provided what the independent reviewer considers to be an appropriate remedy and there will be nothing gained by conducting a review.
28. We anticipate that only a small minority of complaints will be accepted for a full review, and, in those cases, the independent reviewer 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 were reasonable and properly explained,
  - the investigation was handled efficiently, without unnecessary delay,
  - the outcome was appropriate.
29. We are still considering the best way of commissioning the independent review, but the criteria we have identified as essential are set out below:
- independence from the SRA,
  - experience of handling complaints—in particular, discrimination complaints,
  - an understanding of the position and needs of consumers of legal advice and the ability to inspire confidence in the public,
  - an understanding of the position and needs of the solicitors profession and the ability to inspire confidence in the profession,
  - experience of working with a regulatory body and the ability to become familiar with the SRA,
  - an understanding of equality and human rights issues.

**Consultation question 1**

Do you agree with our three-stage approach for handling complaints?

**Dealing with discrimination complaints**

30. It is essential that the public, consumers of legal advice, the profession and other stakeholders have trust and confidence that the SRA will carry out its responsibilities fairly and without discrimination.

31. Through this complaints-handling policy, we will take the opportunity to challenge discrimination to help us meet our equality duties and deliver our equality and diversity strategy by
- dealing thoroughly and sensitively with complaints of discrimination,
  - making sure that discrimination complaints are dealt with by staff who have received relevant specialist training,
  - equality monitoring our complainants,
  - reviewing the incidence and outcomes of discrimination complaints and using the findings to improve the way that we work.

### **Consultation question 2**

Do you agree with our approach for handling discrimination complaints?

## **Service standards for complaints handling**

32. We have set out timescales for responding to complaints as follows:
- We will acknowledge all complaints within five working days of receipt.
  - If a complaint is referred for a stage 1 response from the unit where the complaint arose, we aim to provide a full response within 10 working days (two weeks) of receiving the complaint.
  - If a complaint is referred for a stage 2 response from the central complaints team, we aim to provide a full response within 20 working days (four weeks) of receiving the complaint.
  - If a complaint is referred for independent review at stage 3, we will expect the response to be provided within 20 working days of the independent reviewer receiving the papers.
33. These time limits may vary (with notice to the complainant) depending on the complexity of the matter, the time taken for the complainant to respond to queries and the arrangements that we are able to make with the independent reviewer.
34. In setting these timescales, we have balanced the need to respond quickly to complaints against the need to ensure that we have enough time to conduct a full and thorough investigation when complaints are complex.



### **Consultation question 3**

Do you agree with our proposed service standards?

Is the policy user friendly, and are there any equality issues that we have overlooked?

35. We have tried to keep the policy simple and easy for all complainants to use, and we intend to prepare a short leaflet summarising the process. This will be drafted once we have a better idea of what the final complaints-handling policy will look like.
36. The policy contains a standard complaints form for people to use, but the form is **not** compulsory; it is intended to help complainants understand what information we need to help us respond promptly to the complaint. We will accept complaints made in writing, by email, online, or by telephone and those made in person during the course of our investigation or other work.
37. We will make sure that our policy is accessible in practice for disabled people who may need reasonable adjustments and for complainants who speak English as a second language. We would welcome any further comments or issues about how our proposed complaints-handling policy may affect equality in relation to all equality strands, namely race, gender, disability, religion or belief, age and sexual orientation.

### **Consultation question 4**

Do you find our draft policy simple and easy to understand?

### **Consultation question 5**

Are there any other equality issues that we should take into account?

The remedies available when complaints are upheld

38. For all complaints that have been upheld or partially upheld, we will provide a full explanation for any wrongdoing and, where appropriate, will apologise and take any appropriate action to rectify the situation for the complainant, such as re-opening a case for further consideration or offering an extension of time to respond to a deadline.
39. We will also make sure that we learn from our complaints and take appropriate action to improve our practices and procedures.
40. In very exceptional cases, we may make an ex gratia payment in line with our special payments policy (i.e. where there has been a “serious failing”). The special payments policy is currently being reviewed but the criteria for payment is likely to be based on proven loss and/or distress.

**Consultation question 6**

Do you agree with the remedies that we are proposing to offer for complaints that have been upheld?