

Handling complaints about the SRA

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Introduction

1. We consulted on our draft complaints handling policy over the period from 14 August to 13 November 2009. The consultation paper was published on our website and circulated to our staff.
2. To raise awareness of the consultation we issued a press release which was picked up by the Legal Gazette on 1 October 2009. We were able refer to the consultation and in some cases discuss the broad issues at various stakeholder events or meetings held during the period, such as: the External Implementation Group Meeting¹, the Rules Working Group² and the Disability Advisory Group³ and the SRA Roadshow⁴ in Leeds during October and at a consumer consultation event about using solicitors in November 2009⁵.
3. We directly contacted a number of organisations who we work very closely with – including the Law Society, the Ministry of Justice, the Legal Complaints Service, the new Office for Legal Complaints and the Legal Services Board – and asked for their comments. We also circulated the consultation paper to a number of organisations whose input we thought would be of interest; these included legal and other regulators, various solicitor and consumer groups and equality groups representing both solicitors and consumers.

Responses

4. We had a total of 54 responses. Chart 1 (below) outlines where these responses came from.
5. The solicitors' group included solicitors responding on their own behalf, solicitors' firms and various solicitor associations. The equality groups included those representing the profession and consumers. The number of staff who responded is greater than shown as some of the responses were from staff teams.

¹ The group set up and chaired by Lord Ouseley to monitor the SRA's progress on Equality and Diversity.

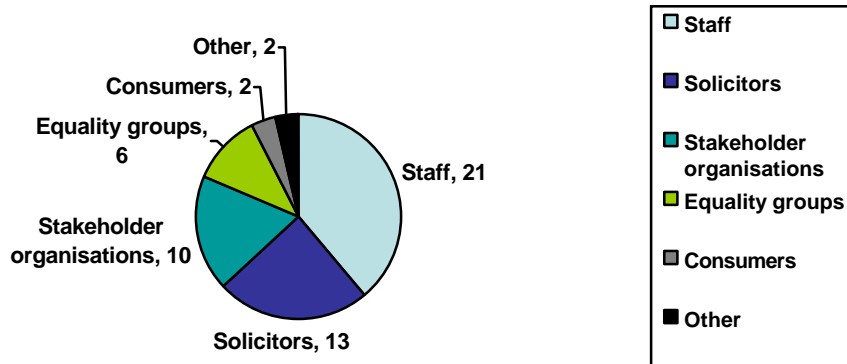
² A group set up to promote engagement with black and minority solicitors in relation to our work to implement the changes prompted by legislation and the new regulatory framework.

³ A groups originally set up by the Legal Complaints Service to discuss issues of relevance to disability equality groups.

⁴ One of a series of engagement events held across England and Wales to explain the work of the SRA.

⁵ An event held with members of the public who had recently used the services of a solicitor to discuss their experience and better understand their needs and expectations.

Chart 1 - Breakdown of responses by respondent type



6. The following table shows where the external responses came from. We received a total of 33 responses from external stakeholders.

10 stakeholder organisations	The Law Society
	The Law Society Equality and Diversity Committee
	The Legal Complaints Service (LCS)
	Office of the Legal Services Ombudsman/ Office of the Legal Services Complaints Commissioner
	The Bar Standards Board
	Financial Services Authority
	Office of the Complaints Commissioner
	The Office of the Immigration Services Commissioner
	General Dental Council
	Office for the Independent Complaints Reviewer

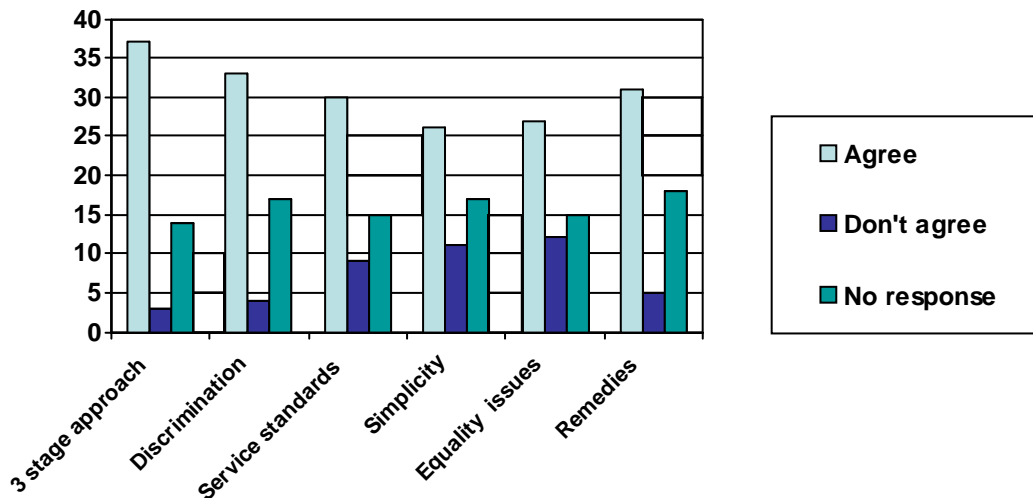
4 solicitors' groups (listed)	Government Legal Service
	7 solicitors (or other legal professionals)
	Solicitors in Local Government
	2 solicitors' firms
	Sole Practitioners Group
	City of London Law Society
6 equality groups	Society of Bangladeshi Solicitors
	Lawyers with Disabilities Division
	Age Concern, Warwickshire represented on the Disability Advisory Group
	MIND, represented on the Disability Advisory Group
	Mencap, represented on the Disability Advisory Group
	RNID, represented on the Disability Advisory Group
2 consumers and 2 others	-
Total: 33	

7. Fourteen monitoring forms were returned. Seven of these were from people responding on behalf of a group or firm.

Answers to the consultation questions

8. We asked six questions in the consultation. Most of our respondents provided answers to these questions, along with additional comments.
9. Each of the questions offered a "Yes" or "No" option and provided space for further comments. Some respondents chose to answer "Yes" or "No" and some did not. A record of the "Yes" or "No" answers for each of the six questions is set out in Chart 2 and a summary of the main comments made about each question are set out below.

Chart 2 - Responses to the consultation questions



Q1 – Do you agree with our three-stage approach for handling complaints?

10. 93 per cent of the respondents who gave a definite answer to this question agreed with our three-stage process for handling complaints. (37 respondents agreed, 3 disagreed and there were 14 respondents who made general comments but did not state whether they agreed or disagreed.
11. Many of the respondents made helpful comments and suggestions. A selection of these are set out below.
12. The principles behind our approach were welcomed by many respondents:
 - ”The three-tier approach proposed by the SRA for managing complaints appears sensible, and aligns processes with other tried and tested regulator models such as that to the Office of the Complaints Commissioner.” (Stakeholder organisation)
 - ”We welcome the decision to draw on the practices adopted by the public sector and other regulatory authorities.” (Solicitors’ firm)
 - ”Overall, we agree that the three-stage approach is sensible and will help ensure consistency of approach in handling all complaints received by the SRA.” (Staff)
 - ”Making a complaint can be extremely stressful and is often a last resort for those who have not received good service. The three stages will make sure all complaints are considered properly and all those complaining will be treated the same.“ (Consumer of legal services)
13. There was recognition that in practice it is difficult to separate a complaint about the way in which a matter has been handled (which would be suitable for the

complaints policy) and what is effectively an appeal against the outcome of the regulatory decision (which would not).

"It is important that the complaints process is not mistaken for an 'appeal process' and the external reviewer is not seen as the final 'court of appeal' regarding the initial complaint decision." (Stakeholder organisation)

"The papers should also make clear as to how this policy sits with the rights of appeal, which are open to subject solicitors and others regulated by the SRA. Also, how this policy sits with the appeals and reconsiderations policy." (Staff)

SRA Response

We recognise it is often difficult to separate dissatisfaction with the outcome of regulatory action and dissatisfaction with the way we have handled the matter. We will always advise complainants to use the appeals process if they are dissatisfied with the outcome of regulatory action – it is not the purpose of the complaints policy to provide a separate route for appeals. In cases where the complainant has no right of appeal, we will be guided by our appeals and reconsiderations policy, which enables the SRA to refer a matter for reconsideration where the outcome appears to be "fundamentally wrong".

14. There was some concern about how we would manage ongoing regulatory action at the same time as investigating complaints:

"Generally we are concerned to ensure that the investigations undertaken by the unit are not delayed/diverted by solicitors manipulating the procedure for this purpose." (Staff)

"There may well be occasions...where complaints of bias, substantial mishandling, or discrimination are made, when it will be appropriate for the SRA to either suspend its regulatory investigation, or to postpone any announcement, until the conclusion of the complaints handling process. We believe that the complainant should have the right to request this." (Solicitor group)

"In complaints, such as one of bias or discrimination, there should be a presumption in favour of transferring the case." (Stakeholder organisation)

SRA response

We feel that each case should be assessed on its merits. There may be cases where we can suspend the regulatory action whilst we investigate the complaint, but in others it may be in the public interest to continue. Although we will retain the presumption in favour of continuing with regulatory action (to avoid the complaints policy being used tactically to delay the regulatory action) we will ensure that our staff guidance material emphasises the need to carefully consider the implications of this for each complaint received. We will explain our decision with reasons to each complainant who requests that the action be suspended or the case transferred to another caseworker. We have revised the policy to set out our broad principles and the criteria for making a decision in each case.

15. Some concern was expressed about the proposal to make the investigation process largely paper-based:

Meeting complainants in person more often than proposed “may help to resolve concerns more efficiently”. (Solicitors’ firm)

There should be “equality of arms” – either you see complainants and staff in person or deal with both by email/letter. (Equality group – from a group discussion)

The policy “should allow greater scope for personal contact with the complainant....Faced with the approach proposed...individuals [who may have difficulty communicating as a result of language or poor education or who may have a fear of authority]...may choose not to complain or abandon their complaint out of fear or frustration”. (Stakeholder organisation)

Documents produced should be “fully accessible for someone with a learning disability....I would like to see a move to have personal contact with someone with a learning disability or an advocate written into the policies and procedures....[Decisions] should also be drawn up in a fully accessible document followed up by personal contact to explain [it]”. (Stakeholder organisation)

“In almost all circumstances the complainant should have the opportunity to address the SRA or the independent reviewer orally.” (Solicitor’s group)

“Whilst I appreciate the complaint has to be looked at impartially, I think the individual [staff member] concerned should have a right to explain their position.” (Staff)

SRA response

We have removed the reference to a paper based process and will be as flexible as we can in the way that we communicate with complainants. We will encourage early personal contact with complainants where possible. However, this is likely to be by telephone or email rather than face-to-face because we deal with cases across the whole of England and Wales from a central office base. To ensure that we are fair and objective, we will do our best to ensure that complainants have the same opportunity to put their case as staff do - this will be emphasised in our staff guidance material.

16. It was felt that we should better explain which complaints were suitable for stage one, which ought to go to stage two and which would be considered by the external reviewer:

"There could be grounds for grading complaints as they do in social work settings." (Solicitors' firm)

"Solicitors [contacting the ethics guidance team] will often informally express dissatisfaction about various issues about regulation and the SRA in general, but are not clearly wishing to make a formal complaint...[The policy as drafted] could lead to a large number of complaints." (Staff)

"How will you deal with complaints that are related to SRA policy or the performance of SRA staff?" (Stakeholder organisation)

"Who decides that a complaint is stage one or stage two?" (Staff)

"The stage one process should always be reviewed by the central complaints team, and details of any complaint or potential complaint, and the steps taken to deal with it, should be copied to that team, who may call it in if they feel it is inappropriate for stage one." (Stakeholder organisation)

SRA response

We recognise that there will always be a degree of judgement in deciding whether or not there is a "complaint", as defined by the policy. We will be training staff in relation to this and our advice will be to check with the complainant and record the matter as a complaint if there is any uncertainty. We will expect staff to respond to all concerns, whether or not they are classified as a complaint. For example, if a solicitor is concerned about the deadline they have been given for responding to an allegation, in most cases this can be resolved by an extension of time without the need to record this as a complaint. If the extension is refused or is considered to be too short and the solicitor is dissatisfied, the matter will then have to be registered as a complaint and dealt with under this procedure.

Part of the central complaints team's role will be to provide quality assurance to ensure that we are making appropriate and consistent decisions in accordance with the policy.

We expect that only a small minority of complaints will fall outside the scope of this policy, and by their nature will require an individual response. Each complainant in this position will be advised of the proposed process for responding.

Similarly, we expect that only a small minority of complaints will be deferred to allow us to deal with the matter through disciplinary procedures we have addressed this already in the policy.

We have clarified our explanation as to which complaints are dealt with at stage one and which at stage two and who is responsible for making this decision.

17. There was widespread support for the independent reviewer, but many respondents felt that we needed to provide more detail and explain how it would work alongside the statutory powers of the Legal Services Ombudsman. There were also some concerns about the cost and whether we were working within the current legal services regulatory framework.

"The independent review stage... will bring significant benefits in terms of:

- Enhancing public confidence in the complaints process as a whole,
- Saving time spent by senior SRA staff responding to correspondence from complainants who are dissatisfied with the outcome of the internal complaints process,
- Achieving closure for complainants and SRA, even in the most complex cases, and

- Generating constructive and practical suggestions for systemic improvement.” (Stakeholder organisation)

”Whilst we regard the appointment of an independent reviewer as a positive move we feel some further thinking about the detail of the process and the remit of the [independent reviewer] may be useful.” (Stakeholder organisation)

”I think the idea of having a separate Ombudsman to review complaints is an excellent idea....It will help our reputation as we will not be accused of being bias.” (Staff)

If the SRA is paying the independent reviewer ”he or she will not be independent of the SRA....[The] exact nature of the relationship between the reviewer and the SRA needs to be made very clear....It would be helpful if the SRA spelt out in detail the difference between the [independent reviewer’s] initial consideration and the full review and what each involves”. (Stakeholder organisation)

”Whilst we agree that Stage three should be independent of the SRA we remain unconvinced that the arrangements should be made by the SRA itself rather than by [Legal Services Board]....No reference is made of the intentions of the Legal Services Board or the Office of Legal Complaints in the consultation document....We do not believe that there should be any duplication between the various regulators here as this will only add to the cost of regulation.” (Solicitors group)

”We are concerned that stage three involves the setting up of yet another independent body – with all the cost involved, which must devolve on the profession.” (Stakeholder organisation)

”As an organisation we are looking to save money and be more efficient. This third stage will add further costs to our investigations...is a third stage truly justified?” (Staff)

Because of the statutory responsibilities of the Legal Services Ombudsman ”the appointment of the external reviewer [should not be] made until the new Office for Legal Complaints goes live under the Legal Services Act 2007”. (Stakeholder organisation)

SRA response

As there was widespread support for our proposal to appoint an independent reviewer, we are proposing to the SRA Board that we move forward with this. This approach reflects best practice and will help us to demonstrate that our approach is fair and impartial. We will be talking further with the Legal Services Board, the Office for Legal Complaints, the Legal Services Ombudsman and others about the detailed arrangements. We will be guided by the feedback we have received and seek to minimise the cost, work within the current regulatory framework, and ensure that the reviewer is appropriately qualified, independent, and has meaningful authority in his or her decision making powers. There may be a need to revise some details of the policy once the independent reviewer appointment has been made.

18. There was also recognition that promoting the new policy to staff and providing further guidance would be important:

"The draft policy does not mention how you propose to promote your complaints handling procedures internally. Do you propose to provide training for staff to raise awareness of how to identify complaints, the correct complaints handling processes and procedures and how to track resulting changes?" (Stakeholder organisation)

"We will need some further guidance prepared, definitely for staff and potentially for customers...to supplement the criteria for referring [a complaint] to stage two." (Staff)

"It will be important for the SRA's managers to be trained and confident in using the SRA's new policy..." (Staff)

SRA response

We do have a section in the policy to explain how we will promote awareness of the policy to those who we come into contact with. We are preparing staff guidance and training to ensure that the new approach is understood and implemented across the SRA. We will also be working with some of our other stakeholders to ensure that solicitors and members of the public are aware that we have the policy in place.

19. One solicitor felt that the policy was focused too much towards consumers of legal services rather than to solicitors who also had a right to complain. This solicitor was unconvinced that the proposed policy was robust or independent enough to give solicitors a real right to challenge "wrongdoing" by the SRA:

"It is vital to have the most stringent safeguards in place to prevent any abuse of office in the first place and to be able to really get to the bottom of

things when it looks as though the system might have broken down.”
(Solicitor)

SRA response

We would hope that the independent reviewer will provide a safeguard in such cases.

Q2 – Do you agree with our approach for handling discrimination complaints?

20. 89 per cent of the respondents who gave a definite answer to this question agreed with our approach for handling discrimination complaints. (33 respondents agreed, 4 disagreed and there were 17 respondents who made general comments but did not confirm their express agreement or disagreement).

21. Two of those who disagreed explained why they did not agree:

“We cannot envisage any circumstances in which it would be reasonable to deal with a discrimination complaint as a stage one complaint.” (Solicitors’ firm)

“All staff should be trained on discrimination if they handle complaints.”
(Solicitor group)

SRA response

We do not wish to take a prescriptive approach to discrimination complaints by routing all such complaints to stage two. It may well be the most appropriate response, but not necessarily in all cases and responding at stage one (rather than stage two) does not imply that the SRA is treating the complaint any less seriously. We feel there are discrimination complaints that we could deal with quite properly at stage one. For example, a local manager would be well equipped to deal promptly with a complaint from a disabled complainant who is dissatisfied with the reasonable adjustments we have provided. They would be able to consult our Reasonable Adjustments Protocol, seek advice from the equality and diversity team and take into account the resources available to the unit in considering whether we could offer improved arrangements for the complainant.

Our guidance material for staff will provide advice on this matter and all staff responding to complaints will be given complaints handling training that will include how to recognise and handle complaints of discrimination. We will take into account the complainant’s wishes and the central complaints team will be providing quality assurance that will involve a regular review of how staff are referring cases for investigation on receipt.

22. There were also some helpful comments from those who agreed with our proposed approach to handling discrimination complaints:

"We believe the SRA's stated approach to discrimination complaints is appropriate, and we would be keen to see that reviewing the incidence and outcomes of discrimination complaints is taken forward as proposed."
(Stakeholder organisation)

"We...would also like to highlight the importance of integrating discrimination complaints fully into the overall policy, rather than creating a sub-strand to the policy for particular complaint types. At stage one, it is essential (for the integrity and robustness of the process and policy) that complaints alleging discrimination are handled on exactly the same terms as any other complaint....Discrimination can, of course, be entirely subject to an individual's personal circumstances and may not be easily defined as fitting with a specific diversity strand (such as age, ethnicity, etc) – as such, we believe the SRA's policy needs to be responsive to each individual complainant on a case-by-case basis rather than be geared toward managing particular strands of discrimination complaints." (Staff)

"The SRA should also give consideration to additionally incorporating gender reassignment and human rights...and non statutory 'equality strands' such as social status, criminal convictions, asylum seekers."
(Stakeholder organisation)

"I think I agree that discrimination complaints should be dealt with alongside other complaints, but do we not need a designated overseer to ensure consistency and continuity?" (Solicitors' firm)

"I think this should be subject to regular review to make sure it is effective."
(Equality group)

"It would be good to have training provided on what is discrimination, to make sure everyone is aware when discrimination is taking place. Also a more formal procedure rather than 'using the findings to improve the way we work' [is needed]." (Equality group)

SRA response

We will take on board the comments made and, as stated above, will ensure that all staff responding to complaints have been trained to deal with discrimination complaints, and will be auditing and reporting on the outcome of discrimination complaints.

All complaints of discrimination will be recorded and dealt with, whether or not they are based on the grounds expressly protected by the legislation.

23. Some respondents felt that there was too much emphasis on discrimination complaints:

"A sledgehammer to crack a nut that does not, fortunately in reality, I would respectfully suggest, actually exist." (Solicitor)

"There appears to be a political dimension to this which may not be borne out by the reality of the environment." (Solicitor)

"Is there any reason why so much emphasis is given to experience of discrimination complaints?" (Staff)

"Although as there are a great many different types of complaint, perhaps the special treatment of discrimination matters could be seen as unfair...I would expect all complaints to be dealt with 'thoroughly and sensitively' by staff with 'relevant...training'." (Staff)

SRA response

We think that all complaints are equally deserving of a considered, transparent and fair response and have decided that all complaints should be dealt with under the same policy. However, in recognition of our statutory equality duties and our Equality and Diversity strategy, we do feel that it is appropriate to emphasise our approach to discrimination complaints and provide assurance to complainants that we will be taking these complaints very seriously and monitoring the incidence and outcomes of these complaints as a distinct type of complaint within our overall procedure to ensure transparency and accountability.

Q3 – Do you agree with our proposed service standards?

24. 77 per cent of the respondents who gave a definite answer to this question agreed with our proposed service standards (30 respondents agreed, 9 disagreed and there were 15 respondents who made general comments but did not confirm their express agreement or disagreement).
25. Some respondents pointed out various other stages of the process where we had not specified time scales and where we had not been clear enough in how we intended to apply the limits we had set (such as the time that may be needed to decide whether the complaint is to be dealt with at stage one or two).
26. Some respondents felt that our response times were too long:
- "Complaints should be acknowledged within two business days, as solicitors are required to do." (Solicitors' firm)
- "Up to five days for the initial response is...absurd....Your timescale should be two days at the most!" (Solicitor)

"On reflection, 20 working days for a stage two is probably a little long? Would be interested to get customer feedback on this and what our benchmark is for stage two with other organisations." (Staff)

"I think 20 working days to respond to stage two complaints is very long and could infuriate the complainant even more." (Staff)

27. Some felt that our response times may be too short and if we were unrealistic about the time it was going to take, the service standards would be undermined:

"I think maybe a bit optimistic, but certainly impressive targets to aim for (if achievable)." (Solicitors' firm)

"10 days may not be long enough and credibility would be lost if you exceeded the time frame more than [you] met it." (Stakeholder organisation)

"The timescales proposed...seem very ambitious, and could be difficult to deliver. Our experience is that complainants value a thorough and open-minded investigation more highly than a very quick response. They also find repeated letters postponing the response date very irritating. Somewhat longer timescales that the organisation would confidently expect to meet, in all but the most exceptional cases, might be preferable." (Stakeholder organisation)

"10 days is too short...the time should be extended to 15-20 days...in order to give a fair response." (Staff)

SRA response

We do expect that there will be some cases where it will be difficult to keep to the stated deadlines but we have decided to stick with our original proposal, which we think is appropriate and which we benchmarked against a number of relevant public authorities. We have clarified the areas where we had not been clear.

28. Some respondents felt that recording and transparency was important:

"If there are to be performance targets linked to our new complaint handling policy, we believe that these targets should be reported publicly each quarter, in order to demonstrate the effectiveness of the policy and provide a clear auditable trail of how the SRA is improving in its complaint handling." (Staff)

"Procedures need to be in place to ensure that Units are logging all complaints and providing responses that meet the required standards. This should then be used as a performance indicator." (Staff)

SRA response

We do propose to set performance indicators to measure these service standards and these figures will be published annually.

Q4 – Do you find our draft policy simple and easy to understand?

29. 77 per cent of the respondents who gave a definite answer to this question agreed that the policy was simple and easy to understand. (26 respondents agreed, 11 disagreed and there were 17 respondents who made general comments but did not confirm their express agreement or disagreement).
30. Many respondents felt the policy was too lengthy and it was described as "unnecessarily complex" (Solicitor) and containing "too many ifs and buts [and] bureaucratic" (Solicitor).
31. Some felt that there were particular areas where less jargon could have been used and where the explanations could be clearer, such as explaining what a service complaint was (Stakeholder organisation).
32. One of the equality groups felt that "it is essential there is an accessible version produced for people with a learning disability".
33. The flow chart was found to be helpful by some of the respondents and many agreed that a short "consumer" leaflet would be helpful.

SRA response

We have been unable to reduce the length of the policy as we have found that there is a need and an expectation that we provide clarity on a wide range of issues. However, we will be drafting a short "consumer leaflet". This will contain only the essential elements of the policy that complainants need to understand how to complain and how we will respond. We will be producing the consumer leaflet in an accessible format and will make it available in other languages as required. We have reviewed the policy and made various amendments to minimise the use of jargon.

Q5 – Are there any other equality issues that we should take into account?

1. 69 per cent of the respondents who gave a definite answer to this question did not think there were any other equality issues that we needed to take into account. (27 respondents said there were no further issues, 12 said there were, and 15 respondents who made general comments but did not confirm their express agreement or disagreement).

2. Of those 12 respondents who suggested there were further issues that we needed to take into account, comments were provided from 11 as follows:

"Successful complaints handling requires that the SRA should be seen to be impartial to different types of firm and their perceived status. It is in the public interest and in that of the profession, that there should be no evidence of inequality of approach by the regulator." (Stakeholder organisation)

"Worth considering how to deal with a complaint that is lodged by an advocate on behalf of someone. People with a learning disability could be represented by an advocate and how this approach might differ from dealing directly with the complainant." (Equality group)

The SRA should take account of "the stress a complaint can cause a member of staff, especially if their file is on-hold whilst their manager or [the complaints team] deal with a complaint. This will be made worse by the third stage". (Staff)

"Are we offering the service in other languages, what about those with a sight disability? We shouldn't just make this an issue of ethnicity and background." (Staff)

"Age discrimination, in some aspects of life you are discriminated against due to old age especially in the workplace. However, I also believe that these cases of race, colour or sex discrimination should be reduced as it has got to the point that anyone can sue for any reason these days!" (Consumer)

The SRA could translate this policy into different languages... "However, as a minimum we believe the policy should be made available in Welsh, or at least a version made available that explains clearly in Welsh how to complain and what will happen". (Staff)

"We need to ensure that the complaints form is an editable or online form." (Staff)

"It is extremely important that the Independent reviewer will have disability equality and diversity training...we recommend you provide a British sign language clip online....We would be interested to know how you intend to monitor the complaints as well as evaluate and act on findings." (Equality group)

"Literacy. Some complainants, non solicitors and members of the public may be disadvantaged." (Equality group)

"A watching brief should be kept by those responsible for keeping the policy current and relevant...and in order to obtain relevant feedback." (Stakeholder organisation)

SRA response

We have confirmed that we will make the policy available in an accessible format and in other languages as required (including Welsh), and complainants will be able to talk through the complaints procedure with us if they have difficulties reading the written version. We will consider further whether there is any possibility of providing advocates as a form of reasonable adjustment for certain complainants. Staff training will emphasise the importance of treating all solicitors fairly (whether they are sole practitioners or working in a large commercial firm) and all training will be extended to the independent reviewer. Managers of the staff involved in a complaint will be responsible for ensuring that the welfare of the staff member is protected. We will be working out our precise monitoring and reporting arrangements and arrangements for ensuring that we implement any learning.

Q6 – Do you agree with the remedies that we are proposing to offer for complaints that have been upheld?

1. 86 per cent of the respondents who gave a definite answer to this question agreed with the remedies that we were proposing to offer. (31 respondents agreed, 5 disagreed and there were 18 respondents who made general comments but did not confirm their express agreement or disagreement).
2. The comments and observations made about the proposed remedies covered a range of issues:

"There may be circumstances e.g. where a discrimination complaint is made in which such remedies are not sufficient to compensate for the distress and we would urge the SRA to reconsider this aspect." (Solicitor' firm)

"If a service complaint is upheld there should be a process for considering whether it is appropriate to review the regulatory decision." (Stakeholder organisation)

"...need to be clear on whether the re-opening of a complaint is a remedy and clarify this as it will have implications for the subject of the complaint." (Solicitors group)

"Does the independent reviewer understand our processes, will files be re-opened unnecessarily. This is better dealt with by senior technical staff in house." (Staff)

"In the Commissioner's experience, most complainants are primarily interested in an apology or explanation rather than any financial compensation." (Stakeholder organisation)

"You should be more upfront about when someone deserves compensation and say from the start that you will treat everyone fairly rather than try

everything to wriggle out of paying compensation until you're told you have to [drawn from his experience with a bank]." (Consumer)

"I don't think that there should be an option to just receive an apology. The customer needs to know what is going to be done to resolve the complaint." (Staff)

"Agreed, apart from the cash offer as that could be opening the 'floodgates'. May be advisable to have the discretion to make this award but not to advertise it?" (Staff)

"Consistency of outcome is important and 'you will need to ensure [your proposals] are implemented by each unit effectively and the resources necessary to monitor this are made available'...each member of the [central complaints team] needs to achieve equivalent outcomes for complainants who present similar issues." (Stakeholder organisation)

SRA response

Complainants' legal rights to claim remedies (e.g. for discrimination) will not be affected by the remedies available internally, and the remedies available to compensate for any failings arising from an internal complaint is not meant to stand in place of a complainant's legal rights. It is not intended that the complaints process will involve making any actual regulatory decisions – these need to be dealt with according to established procedures and criteria by those with appropriate authority and experience.

Conclusions

The outcome of the consultation was largely supportive of our approach, although we have reviewed the policy and made a number of amendments to reflect the helpful comments made by respondents.

The main areas where we have made the changes are:

- We have more clearly explained how we will determine any requests to defer ongoing regulatory action when complaints are made, although we have retained the presumption that regulatory action will continue.
- We have more clearly explained that dissatisfaction with the outcome of regulatory action should be directed through the available appeals process or dealt with in accordance with the SRA's reconsiderations policy. Neither complaints officers nor the independent reviewer will make regulatory decisions which should always be channelled to the appropriate decision maker and made in accordance with the relevant criteria. However, recommendations for appropriate action may include a request to apply the reconsiderations policy or to consider re-opening an investigation for example.
- We have better explained how we will decide which complaints will go to stage one and which to stage two and included the complainant's preferences as one of the factors to consider.

- We have agreed that all staff handling complaints should receive training on handling discrimination complaints not just those who are designated to deal with discrimination complaints.
- We have given an assurance that staff and complainants will be given an equal opportunity to put their case forward. Although several respondents felt that face-to-face contact was sometimes preferable, we have not felt able to offer that option to all complainants as we deal with matters across the whole of England and Wales from one office base. Contact with complainants and staff will usually be by telephone, email or letter, but if we feel it will help to progress the complaint or encourage its early resolution, we will consider meeting complainants and staff in person.
- We have included all time limits that will apply to the complaints policy, although we do not intend them to be applied rigidly. We clarified our proposed monitoring and reporting arrangements.