

Handling complaints about the SRA

Consultation questionnaire form

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Question 1

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

Yes

No

Comments

The Commissioner broadly agrees with the SRA's approach, but she has the following comments.

1. The paper states that the "independent reviewer" will be commissioned by the SRA. Presumably this means that s/he will also be remunerated by the SRA. To that extent, s/he will be not be independent of the SRA (unlike the Legal Services Ombudsman).

The Commissioner believes that, in order to avoid any possible misunderstanding by potential complainants about the external reviewer's independence, the exact nature of the relationship between the reviewer and the SRA needs to be made very clear in any published material.

The SRA also needs to make clear the difference between the external reviewer and the Legal Services Ombudsman, and that the complainant may still complain to the Legal Services Ombudsman if they are not satisfied with the decision of the external reviewer.

2. The paper states that it would be more appropriate for the central complaints team to respond to a complaint rather than the unit where the complaint arose "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.

The Commissioner is not clear why the SRA thinks this. It would make sense if the complaint involved the work of more than one unit, but that scenario is dealt with separately. The Commissioner considers that even if a complaint is complex and may take longer than 10 days to provide a substantive response this does not

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necessarily mean that it cannot be handled within the unit where it arose.

3. While the Commissioner thinks it right that investigations should normally be paper-based and that contact with the client will normally be in writing or by telephone, she believes that the SRA's Complaints-handling Policy should allow greater scope for personal contact with the complainant.

As it stands, the policy only allows for face to face meetings in "very exceptional" cases such as where the complainant has a disability which may prevent them communicating effectively by letter or telephone. It seems to see meetings as being concessions to the client and implies that they will normally be at the SRA's offices.

The Commissioner notes that many complainants - in her field in particular - may have difficulties communicating by letter and telephone because English is not their first language or because of poor education. Some complainants, typically asylum-seekers, may be traumatized and not respond well to authority because of their experiences.

Faced with the approach proposed by the SRA, many, such individuals may choose not to complain or abandon their complaint out of fear or frustration.

The OISC finds that, where possible, it is often much more productive to visit such complainants in their homes or on "neutral territory", with an interpreter if necessary. Such visits are valuable tools in getting to the root of a complaint and establishing the relevant facts. They build confidence in the system and they are not to be seen as a concession.

The Commissioner believes that the SRA is right to have as one of the main aims of its policy to enable itself to identify where it is going wrong and to improve, but she considers that, if it wants its complaints-handling policy to be an effective tool for business improvement, it needs to take a more pro-active approach to complaint investigation.

4. Paragraph 27 of the paper refers to the external reviewer considering all requests and deciding whether or not the case is appropriate for a full review. The Commissioner believes it would be helpful if the SRA spelt out in detail the difference between the initial consideration and the full review and what each involves.

It seems that it may require a detailed consideration of a complaint simply to decide whether (e.g.) it is reasonable and proportionate to carry out a "full review". Thus, in practice there may be little difference between a decision not to uphold the complaint and a decision not to review it.

5. The Commissioner believes that any published material must make it clear that the external reviewer is concerned with the handling of complaints about the SRA, not the handling of complaint to the SRA about a solicitor.

This is because the Commissioner anticipates that most complaints will come from individuals who are dissatisfied about the outcome of their complaint about a solicitor. It is important that the complaints process is not mistaken for an "appeal" process and that the external reviewer is not seen as the final "court of appeal" regarding the initial complaint decision.

The Commissioner acknowledges that in some cases it will be very difficult to

separate the two.

Question 2

Do you agree with our approach for handling discrimination complaints?

Yes

No

Comments

None.

Question 3

Do you agree with our proposed service standards?

Yes

No

Comments

The Commissioner is concerned that a timescale of 10 working days for a full stage 1 response will not allow much time for investigation. She appreciates that the consultation paper states that time limits may vary, but she feels it may undermine public confidence if these timescales (which she assumes will be made public) are exceeded more often than they are met.

She also thinks it should be made clear whether the target time for a stage 2 response will remain 20 working days if the complaint goes directly to the central complaints team.

Question 4

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

Yes

No

Comments

The Commissioner has mentioned above some issues that she feels require further clarification, but for the most part she considers the draft policy it simple and easy to understand.

Question 5

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

Yes

No

Comments

None.

Question 6

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

Yes

No

Comments

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

Thank you for completing the **Consultation questionnaire form**.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to consultation@sra.org.uk, by **13 November 2009**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

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