

Centre for Effective Dispute Resolution (CEDR)
Independent Complaint Reviewer Interim Report:
January – June 2020.

1. Introduction

This is my seventh report for CEDR. It covers all schemes and services operated by CEDR other than those that I review in stand alone reports - namely the Communications and Internet Services Adjudication Scheme (CISAS); the Postal Redress Scheme (POSTRS); and the Aviation Adjudication Scheme. This is my interim report for the period 1 January to 30 June 2020.

The Coronavirus pandemic had a significant impact during this period, and I'm mindful of the disruption to CEDR's operations. The office was closed from late March onwards with staff working from home and there have no doubt been potentially challenging demands from customers. Against this backdrop I have been impressed with the overall standard of complaint handling maintained by CEDR; and I commend their success in maintaining continuity of service throughout. I have also taken into account the extraordinary circumstances of the last few months when assessing CEDR's complaint handling performance.

2. My Role

I am an independent consultant. I am not based at CEDR, nor am I part of that organisation. There are two aspects to my role.

Firstly, I can review cases where a user of a scheme or service has complained to CEDR and, having been through the complaints procedure, remains dissatisfied with the outcome.

Under my terms of reference¹ I can only review complaints relating to quality of service in respect of alleged administrative errors, delays, staff rudeness or other such service matters. Other than referring to them where appropriate, I cannot comment on the content or validity of the rules covering CEDR's schemes or services.

I cannot consider the merits or otherwise of decisions made by adjudicators; nor can I investigate or comment on the substance or outcomes of applications made by claimants. Where appropriate, I may make recommendations based on my findings.

¹ https://www.cedr.com/docslib/Independent_Reviewer_Terms_of_Ref_NOV.pdf

The second aspect of my role is to review the complaints CEDR receives about its schemes and services as a whole and produce reports accordingly. These are based on findings from my reviews of individual complaints; and my examination and analysis of all or some of the service complaints handled by CEDR as I see fit.

3. CEDR's Complaints Procedure

The complaints procedure² explains its scope along with the two internal stages of review that take place before, if necessary, a complaint is referred to me.

The procedure is articulated clearly with timescales and information about what can be expected. In brief, if after the first stage response to a complaint customers remain dissatisfied they can ask for escalation to stage two of the process, where a senior staff member (usually a Director) will review the complaint. Where this does not resolve the matter, the complaint can be referred to me for independent review.

4. This Report

No complaints were referred to me for review during this reporting period. For this report I examined all complaints received by CEDR (except those covered in separate reports) between 1 January and 30 June 2020. Excluded are those schemes or services about which no complaints were received.

5. My Findings

(a) Quantitative

Table 1 overleaf shows a breakdown of the volumes of claims and outcomes in respect of those schemes or services about which complaints were received.³

² [https://www.cedr.com/docslib/CEDR_Complaints_procedure_\(1\).pdf](https://www.cedr.com/docslib/CEDR_Complaints_procedure_(1).pdf)

³ Some cases logged in the second half of 2019 carried over to the first half of 2020, and some cases logged in 2019 were concluded in 2020, so the figures will not necessarily balance.

Table 1

Scheme	Claims Received	Claims Adjudicated	Found (or settled) For Claimant	Partly Found for Claimant	Found For Respondent
Consumer Code for Home Builders Independent Dispute Resolution Scheme (CCHBIDRS)	108	53	24	8	21
Independent Healthcare Sector Complaints Adjudication Service (ISCAS) ⁴	45	13	9	n/a	4
Funeral Conciliation & Adjudication Scheme (NAFD) ⁵	49	33	30	0	3
	5	4	0	4	0
Royal Institution of Chartered Surveyors (RICS)	201	126	46	15	65
Solicitors Regulatory Authority (SRA) ⁶	38	n/a	n/a	n/a	n/a
Water & Sewerage Services ⁷ (WATRS)	225	133	12	52	69
Totals	671	362	121	79	162

Table 1 gives an overview of those schemes and services that gave rise to complaints; and it gives the context within which those complaints should be viewed.

⁴ ISCAS outcomes are in the form of goodwill payments. For the purposes of table 1, goodwill payments made are shown as “found for the claimant”. Decisions where no goodwill payment was made are shown as “found for the respondent”.

⁵ The NAFD Scheme provides both conciliation and adjudication. The former is basically a negotiated settlement; the latter is a formal adjudication. The top figure shows conciliation cases; the bottom figure shows adjudications.

⁶ The SRA is a complaints review service, so does not have adjudication outcomes. Claims received include enquiries about use of the service.

⁷ WATRS outcomes are categorised as “action required” or “not required”. However, for ease of presentation this table groups them under the same headings as other schemes and services.

Information about each of CEDR's schemes or services is available on the website: <https://www.cedr.com/consumer/>

Table 2 shows the total claims for each scheme or service that received complaints; the number and percentage of service complaints; the number of those complaints that were "in scope", "partly in scope" and "out of scope"; and the outcomes of the "in scope" and "partly in scope" complaints.

Table 2

Scheme	Total Claims	Service Complaints	%age	In Scope	Partly in scope	Out of scope	Upheld in full	Partly upheld	Not upheld
CCHBIDRS	108	2	1.8	0	0	2	0	0	2
ISCAS	45	1	2.2	0	1	0	0	1	0
NAFD Conciliation	49	0	0	n/a	n/a	n/a	n/a	n/a	n/a
NAFD Adjudication	5	1	20.0	0	0	1	0	0	1
RICS	201	2	1.0	0	2	0	0	1	1
SRA	38	4	10.5	0	1	3	0	1	3
WATRS	225	3	1.3	0	1	2	0	0	3
Totals	671	13	1.9	0	5	8	0	3	10

Allowance should be made for those schemes or services with low volumes of claims - in such instances a small number of complaints is a high percentage.

CEDR coded and classified all cases correctly.

As has been the trend in recent years, CEDR continues to receive a very low number of complaints. There were no complaints at all for 22 of its schemes or services; and of the 671 claims it handled in the first half of 2020 in respect of those schemes or services covered by this report, CEDR had 13 complaints about its own performance. This equals 1.9%, which is slightly better than the 2019 full year result of 2.1%.

Of the total claims received, 54% (362) received a decision or outcome from an adjudicator. The remaining 46% were either outside the scope for investigation by CEDR, or were settled without the need to progress to an adjudicator.

On claims where an adjudication outcome was reached CEDR found wholly for the claimant in 121 cases (33%); partly for the claimant in 79 cases (22%); and wholly for the respondent in 199 cases (45%).

This overview gives a helpful context in which to view complaints made about CEDR's service levels - and against that backdrop the fact that CEDR received only 13 complaints is in my opinion continued evidence of a well functioning operation.

As is usually the case, any quantitative analysis is of no real value due to the low complaint numbers. There are no identifiable themes or trends.

(b) Qualitative

(i) Timescales

CEDR responded to all 13 complaints within its 30 working day target, with an average of 13 and a range of zero to 30 working days.

CEDR acknowledged seven complaints within one working day; four within three working days; and two within four working days.

Given the significant disruption caused by the Coronavirus pandemic this is in my view a highly creditable performance.

(ii) Casework and Outcomes

CCHBIDRS: two complaints

In the first complaint, the customer disagreed with the adjudicator's decision in respect of some floor coverings and some boundary fencing; felt that the adjudicator had made errors in weighing up evidence; and felt that the process itself was unfair.

The second case concerned accusations of bias, and failure by the adjudicator to consider all the evidence relating to the claim - which was to do with a building regulations matter.

CEDR ruled both complaints as "out of scope", which was in my view the correct outcome. The Stage 1 letters that CEDR sent to the customers were informative and of a good standard.

Both complaints were dealt with within three working days, which is excellent.

ISCAS: one complaint

This was a lengthy, complex and multifaceted case about the treatment of the claimant's late parent. It is not appropriate to go into any detail here; suffice to say that from my perspective CEDR handled the matter sensitively throughout. The case was rightly accepted as "partly within scope" as it contained specific complaints about the adjudication decision (which were "out of scope") along with complaints about administrative delays (which were "within scope").

The Stage 1 response gave a good summary of events and set out the scope of the complaints procedure. The delays were acknowledged and CEDR identified that one email from the customer had gone unanswered. Whilst not material to the outcome of the claim, CEDR recognised the impact of the delays and awarded £200.00 compensation. This was a fair outcome in my opinion.

NAFD: one complaint

The complaint was entirely about the adjudicator's decision on the claim (which related to the positioning of a floral tribute). As such it was correctly ruled "out of scope".

RICS: two complaints

Both complaints were correctly accepted as "partly in scope".

The "in scope" element of the first complaint was quite involved but in the main concerned the posting of messages on the on-line portal, and some confusion over a timescale. The Stage 1 reply was in my view comprehensive. CEDR acknowledged that an entry was overlooked on the portal; and established that a technical glitch caused an incorrect timescale to be shown. After some dialogue with the customer, CEDR paid £50.00 compensation - which was in my view reasonable. The customer remained unhappy about parts of the complaint being "out of scope", but I'm satisfied that CEDR made the correct decision as those parts concerned aspects of the adjudication itself.

The customer also raised a complaint about the confidentiality clause attached to the adjudication decision. The same issue came up when I reviewed CISAS and for the sake of completeness, I'm reproducing my comments here.

This clause says that the document is private and confidential and must not be disclosed to any person or organisation not directly involved in the adjudication unless that's necessary to enforce the decision. CEDR's response, in effect, suggested that it would not prevent the sharing of the decision; nor would it enforce any such restriction. In the case of CISAS I understand that the wording of the clause has since been amended to say that decisions can be shared with the Office of Communications. However, I question the purpose and need for such a clause in the first place.

First, and most importantly, it could have the effect of deterring complainants from seeking advice or opinions to which they should surely be entitled (for example, from a friend, family member, representative or professional person). Customers in vulnerable circumstances may be especially disadvantaged if they feel that they are not allowed to show the decision to anyone else. I cannot see what grounds exist for such a restriction being part of any customer focussed Alternative Dispute Resolution scheme.

Second, it strikes me that such a clause cannot be policed. How would CEDR know if a customer had shared the document? And third, if CEDR itself says that it would neither prevent the sharing of a decision nor enforce any such restriction then what is the point of the clause?

It also seems to me that the confidentiality clause contradicts CEDR's advice to customers whose complaints are "out of scope" of the procedure because they are about an adjudicator's decision. CEDR rightly tell such complainants that if they wish to pursue the matter further they may take the matter to other fora - how can they do that if CEDR is also telling them that the decision document cannot be shared with anyone else?

There may well be a good reason for the clause that is not apparent to me. However, I am recommending that CEDR review the clause with a view to its removal if it serves no purpose other than to potentially prevent consumers from seeking advice after their claims are closed if they so wish.

In the second RICS case, inter alia, the customer complained about not being kept informed and a failure to adhere to timescales. The Stage 1 reply was of a high standard and as well as explaining relevant aspects of the Scheme's rules it demonstrated by means of copies of emails that the customer's complaints were groundless. The complaint was, rightly in my view, not upheld.

SRA: four complaints

The SRA is a complaint review service rather than an adjudication or alternative dispute resolution scheme, so it examines complaints made in relation to the SRA rather than issuing decisions per se.

One complaint was “partly in scope”. The original case had many strands to it, and was complex and technical in nature. The SRA had investigated and found no evidence of wrongdoing. CEDR’s subsequent review of the customer’s complaint was rightly limited to reviewing the SRA’s handling of the matter and the outcome was, essentially, that CEDR upheld the SRA’s position.

Much of the customer’s complaint related to rules and procedures adopted by the service, and these matters are clearly outwith the scope of the complaints procedure. However, there were two administrative errors that CEDR identified in its Stage 1 complaint review. The first was a failure to advise the customer that there would be no further correspondence regarding the case; the second was putting the wrong address on a reply to the customer. This caused no problem as the letter to the customer was sent by email only. However, CEDR awarded a total of £30.00 compensation. I’m satisfied that this was fair; both errors were minor, and neither had a material effect on the handling of the case itself.

The remaining three complaints were entirely about the review process and/or the decisions reached by the SRA. Each case was patently outwith the scope of the complaints procedure, and I’m content that CEDR’s Stage 1 letters explained this clearly.

WATRS: three complaints

All three cases were classified correctly in my view: two were “out of scope” and one was “partly in scope”.

The “partly in scope” case centred on queries that the customer claimed WATRS hadn’t answered. However, the Stage 1 review found clear-cut evidence that the adjudicator had in fact responded several times to queries that the customer had raised. The complaint was therefore not upheld.

The two “out of scope” complaints boiled down to the claimants disagreeing with the decisions reached on their claims. There were no service or administration issues in either of them, and the Stage 1 replies gave straightforward explanations of the position.

WATRS complaints were handled with admirable speed - all three were concluded within two working days.

Conclusion

Continuing the pattern of recent years, complaints about CEDR's service levels remain low at 1.9% of the total number of claims. The absolute number also remains low at 13. I am therefore again pleased to report a consistently strong performance.

I'm also pleased to note that no schemes or services stood out, either in terms of numbers or types of complaints. CEDR handled all complaints within timescale - with cases for CCHBIDRS and WATRS taking no longer than three working days. There were no cases escalated to Stage 2. The Stage 1 replies that I looked at were generally of a high standard

I found no errors in terms of recording and classifying cases, and I welcome the efforts that CEDR have made to get to this position.

All in all, I commend CEDR for maintaining a very good level of complaints handling against the backdrop of the disruption caused by the Coronavirus pandemic.

Recommendations

I have one recommendation.

- (a) That CEDR review the confidentiality clause attached to adjudicators' decisions with a view to its removal, so that claimants do not feel deprived of the right to seek further advice if they wish. (See page 7 for my reasoning.)

Acknowledgements

Even though I conducted this review remotely, CEDR provided me with the same level of open and unrestricted access to all the systems and records that I needed just as if I'd been in their offices. I am very grateful for the efforts that they went to in order to set this up for me securely, and for giving me technical support as required. As usual, I therefore had carte blanche in respect of conducting this audit as I saw fit.

I have also had the usual level of assistance with any queries that came up as I conducted my review and I appreciate in particular the responses from the Head of Consumer Services and the Complaints Manager to the occasional points that I raised as I examined the casework.

Chris Holland

A handwritten signature in black ink, appearing to read "CA Holland". The signature is written in a cursive style with a large initial "C" and "A".

Independent Complaint Reviewer

3 September 2020