

Communications and Internet Services Adjudication Scheme (CISAS):
Independent Complaint Reviewer Interim Report
January - June 2020.

1. Introduction

This is my seventh report on CISAS - which deals with complaints made against communications providers who are members of the Scheme. This is my interim report covering 1 January to 30 June 2020.

The Coronavirus pandemic had a significant impact during this period, and I'm mindful of the disruption to CISAS' and CEDR's (the Centre for Effective Dispute Resolution) 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 consider individual complaints about certain aspects of CISAS' standard of customer service. Under my terms of reference¹ and the Scheme's rules² I can consider complaints relating to CISAS' and/or CEDR's 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 Scheme's rules.

I can review cases where a user of the Scheme has complained to CISAS or CEDR and, having been through CEDR's complaint process, remains dissatisfied with the outcome of that complaint. I cannot consider the merits or otherwise of decisions made by CEDR's adjudicators; nor can I investigate or comment on the substance or outcomes of applications made by claimants. I may make recommendations based on my findings.

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

² <https://www.cedr.com/cisas/cisas-rules/>

The second aspect of my role is to review complaints about the Scheme as a whole and produce reports accordingly. These are based on findings from my reviews of individual complaints together with my examination and analysis of all or some of the service complaints handled by CISAS as I see fit.

3. CEDR's Complaints Procedure

The complaints procedure³ 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 doesn't resolve the matter, the complaint can be referred to me for independent review.

4. This Report

I have examined all service complaints received about CISAS between 1 January and 30 June 2020. I had no complaints referred to me for independent review during this period.

5. My Findings

(a) Quantitative

Proportionally, there were very few complaints about CISAS' level of service. There were 62 such complaints out of the 8174 claims the Scheme handled during this reporting period, which represents 0.7%. This is up from 0.6% in 2019 (full year) - a microscopic increase that is of no consequence.

Volumes have however increased year on year, which seems to be a trend. Compared to the first half of 2019, in the first half of 2020 the Scheme saw a 21% increase in applications and a 51% increase in complaints. That said, the ratio of complaints to claims has remained constant within a margin of 0.1 of a percentage point and my review suggests that CISAS has maintained a good service level.

³ [https://www.cedr.com/docslib/CEDR_Complaints_procedure_\(1\).pdf](https://www.cedr.com/docslib/CEDR_Complaints_procedure_(1).pdf)

Of the 8174 applications handled during the first half of 2020, 31% (2557) received a final decision from an adjudicator. The other 69% were either outside CISAS' scope for investigation, or were settled without needing to progress to an adjudicator. This is in line with recent years' figures.

Of the 2557 adjudicated cases, CISAS found wholly for the complainant in 4.6% (117) of cases; 67.1% (1717) partly for the complainant; and 28.3% (723) wholly for the communications provider.

These ratios are consistent with 2019 (and previous years); and the figures provide a useful context in which to view complaints made about CISAS itself. They suggest a sustained good performance, against a backdrop of a significant increase in applications to the Scheme.

Table 1 below gives a breakdown of the service complaints about CISAS:

Table 1: Acceptance/non acceptance of complaints

In Scope	Partly in Scope	Out of Scope	Total
17	21	24	62

I found some classification errors, which I have drawn to CEDR's attention and which have been corrected. I am satisfied that these were recording errors only and did not affect the handling or outcomes of any complaints. The table above shows the corrected figures.

Table 2 below gives a breakdown by outcome at Stage 1 of the complaints process for those cases that were in scope and partly in scope:

Table 2: Stage 1 outcomes of fully and partly upheld complaints

Upheld	Partly Upheld	Not Upheld	Total
10	19	9	38

No complaints progressed to Stage 2 (and therefore, by definition, none went to Stage 3 either).

Tables 1 and 2 show that CEDR accepted 61% of complaints as "in scope" or "partly in scope"; and that 76% of those complaints were fully or partly upheld. These proportions are consistent with 2019's full year picture (66% and 75% respectively).

In quantitative terms, at 0.7% the small proportion of complaints doesn't enable me to identify any trends. As for the absolute volume of complaints I have found no evidence that CISAS/CEDR are the cause of the upturn; rather, the increase seems to me to be a product of a higher number of claims about poor service given by communications providers.

(b) Qualitative

(i) Timescales

CEDR acknowledged 52% of complaints within one working day and 89% within three working days. This compares to 86% and 99% respectively in 2019 (full year). CEDR took longer than three working days to acknowledge 11% of its complaints - the longest being six working days, which happened on three occasions.

In all but four cases CEDR responded to the complainant within 30 working days. This equates to 94% within target - which is a four percentage point decline compared to 2019's full year result.

The average response time was 16.9 working days, which is an improvement from 17.5 in 2019 (full year). The range for this reporting period was zero to 34 working days.

I'm mindful of the disruption caused by the Coronavirus pandemic, and the deterioration in acknowledgment speed may in part be down to that. For that reason, I'm not making any recommendations about acknowledgments this time around - but I would urge CISAS to do all it can to ensure that none take longer than three working days at a maximum.

In my view CEDR have done well in terms of full responses to complainants - 94% within timescale is a creditable performance in current circumstances. The four cases that went over 30 working days did not do so by much, and I noticed that when that did happen a small goodwill payment was usually included by way of a tangible expression of regret for the delay. I like this proactive approach, and whilst it may not always be necessary to make a goodwill payment it is good practice to acknowledge any delay up front and apologise.

(ii) Casework and Outcomes

For this review I examined all 62 complaints that CEDR received about CISAS between 1 January and 30 June 2020.

I found eight classification errors, representing an error rate of about 13%. This is an improvement of seven percentage points on the previous six months but it's still a little higher than I'd like. I comment further in section (7).

I'm satisfied that these were nothing more than human error, and CEDR have corrected them all. I found a handful of other minor data entry errors - none of which had any impact on the processing or outcome of any complaints, and all of which CEDR have now corrected.

Whilst these errors had no material effect, I'd encourage CEDR to continue to aim for greater accuracy as a matter of good practice. I will continue to monitor the situation when I complete my next review.

A total of 38 complaints were either "in scope" (17) or "partly in scope" (21), of which 10 were fully upheld. The most serious of these involved a series of administrative failures that resulted in the premature rejection of a provider's settlement offer to the customer. The ultimate effect of this was the customer forfeiting the offer through no fault of their own. I was very impressed with CEDR's response. The reply from the Head of Consumer Services was open and honest about CISAS' errors; and there was no quibble in respect of awarding compensation of several hundreds of pounds in recognition of the serious impact this had on the customer.

One case was particularly complex. I won't rehearse the detail here, but there were multiple issues to do with the uploading of documents on the on-line portal; access problems; CISAS sending an email to an incorrect address; confusion over reference numbers; and the customer feeling intimidated by the whole process. I was again impressed with the Stage 1 response, which included a comprehensive explanation and took responsibility for the errors. The customer accepted £250.00 in compensation, which I felt was proportionate given the significant inconvenience caused.

A further upheld complaint was about a relatively serious failure to keep a customer (who had no email access) updated together with an error over timescales. The customer accepted £150.00 in compensation.

Other upheld complaints were about a mixture of administrative and service issues - such as delays, poor advice, allegations of rudeness and problems related to the on-line portal. There were no underlying themes or trends among these cases (and I should stress that the rudeness allegations were infrequent and I could find nothing to substantiate them). CEDR made appropriate compensation offers, all of which were proportionate and fair in my opinion.

A further 19 cases were partly upheld. It was clear to me that the parts of these complaints that were not upheld were either to do with non service issues; or that there was evidence (for example, from entries on the on-line portal) that the complaints could not be substantiated. So I could find nothing to suggest any underlying issues - these partly upheld complaints were to do with individual errors or oversights on a case-by-case basis. Each complaint was in my view well reviewed at Stage 1 of the process, and a reasonable outcome was reached.

CEDR made a total of 26 goodwill offers, ranging from £15.00 to £500.00. I am satisfied that these were proportionate. This is similar to the previous six months, when CEDR made 30 offers, ranging from £15.00 to £300.00

CEDR did not uphold nine complaints that were “in scope” or “partly in scope”, and I am satisfied that they reached the correct outcome in each case. Most featured allegations that CISAS hadn’t taken certain actions when there was evidence to the contrary (for example, posting information on the on-line portal or pointing the customer towards relevant guidance); and in one case a CISAS staff member was accused of swearing at a customer but a review of the calls in question by the Head of Consumer Services confirmed that this never happened.

One claimant complained about the confidentiality clause attached to the adjudicator’s decision. (A similar complaint occurred on another Scheme that CEDR operates.)

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. I understand that the wording of the clause has since been amended to say that decisions can be shared with Ofcom (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 a 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.

The standard of CEDR's Stage 1 replies is worthy of mention. I found very few typographical errors, and I was generally impressed with the overall quality of the replies. In particular, in almost every case there was a comprehensive summary of the customer's complaint. Outcomes were articulated clearly, with the reasoning behind them set out. There was usually a good explanation of the scope of the complaints procedure, but I did find a couple of replies from which this was missing. This doesn't warrant a recommendation, but I'd encourage CEDR to make sure the scope is explained in all cases.

Where possible and appropriate CEDR acted quickly to resolve problems and gave genuine "mea culpa" answers when they had made an error, along with a modest goodwill payment if warranted.

There was some good customer feedback, for example: "Thank you for your email; I very much appreciate your candid explanation..." And another customer said: "I appreciate the detailed investigation and am happy to accept [the compensation] offer."

6. General Observations

I have four general observations.

- (a)** Compliance with awards seems to remain an issue (see also section 7 of this report). One provider alone was responsible for 10 of the 13 complaints I found about this subject. I understand that the Coronavirus pandemic severely disrupted companies' operations; what I understand less is how one provider's disruption was apparently disproportionate - especially given Ofcom's dispensation to allow compensation awards to be paid via credits to customers' accounts. I was pleased to note from the reply to one complaint that CEDR has followed this matter up with the provider in question, as well as reporting it to Ofcom. I urge CEDR to do all within its power to encourage the provider in question to serve its customers better in this regard.
- (b)** Following the recommendation I made in my last report (see section 7) I'm pleased to note that I found only one complaint about failure to respond to a message left on the on-line portal; and as it turned out, CEDR were able to demonstrate that the complaint was in fact groundless.
- (c)** I found only a couple of cases where customers complained about receiving less compensation after adjudication than they had been offered at the settlement stage of a claim. I'm pleased to note guidance that this may happen is available on CISAS' website, in the Scheme's rules and on the on-line portal. To further mitigate against this coming as a surprise, I've suggested to CISAS that if the subject comes up whilst they are in dialogue with claimants they should take the opportunity to proactively give a reminder about the possibility of being awarded a lower amount. The Head of Consumer Services will be briefing the team accordingly.
- (d)** It is evident that CEDR are making efforts to deal more effectively with complaints at Stage 1. The absence of escalations during this reporting period (and the absence of anything to indicate barriers to escalation) suggests that this approach is working for complainants and for CEDR itself. The overall quality of replies has, in my opinion, improved; and there seems to be a greater focus on resolving complaints at an early stage with a combination of pragmatism and flexibility where appropriate.

7. Follow up on previous recommendations

I made three recommendations in my last report. These are shown below (in italics), followed by a summary of CEDR's update to me together with any additional comments.

The issues I identified in the first two recommendations below still exist. I appreciate that the Coronavirus pandemic may have had an impact here, but I will monitor progress carefully and will make further recommendations if appropriate after my next review.

(a) That CEDR improve the accuracy of complaint classification so that, in turn, internal data is accurate. As well as ensuring that the correct classification is shown at the point of entry on the system, CEDR may wish to consider some form of quality check periodically.

This work is ongoing. The Head of Consumer Services will ask that more care is paid to this and will provide more guidance and assistance so as to avoid such errors in future.

(b) That CISAS work with those communication providers who generate complaints about non-compliance with awards, so that consumers receive remedies in a timely fashion. I am mindful that by the time a consumer has reached this point it is likely that some months will have passed since their first complaint to their provider; in my view it is wholly unacceptable to be kept waiting beyond the prescribed timescale for an award.

CISAS implemented a change, with Ofcom's approval, for providers to credit amounts awarded to customers' accounts. This has proved useful, especially during the Coronavirus pandemic. Communications providers will still issue cheques if a customer no longer has an active account.

I have, however, noted that one provider is still generating a disproportionate number of complaints related to compliance with awards.

(c) That CISAS take steps to ensure that they respond to all messages left on the on-line portal in good time (or advise when a reply is expected), so that claimants' queries are answered promptly and uncertainty is mitigated.

The CISAS team has been instructed and should be checking certain case stages every few days. The Head of Consumer Services has found some instances of missed messages, and feedback has been given to the team to help improve further. However, this work is ongoing.

As noted earlier, I found only one complaint on this point during this reporting period and that was not substantiated. I am therefore happy that CEDR have acted on this recommendation and are continuing to do so.

CISAS have also launched (on 10 August 2020) a new version of their case management system, which has a feature enabling easier identification of unread messages that in turn should play a major part in avoiding messages being missed.

(8) Conclusion

As is consistently the case, the frequency of complaints about CISAS' service levels remains very low at 0.7%. Considering a 21% year on year increase in applications to the Scheme - and the impact of the Coronavirus pandemic - this is good evidence of operational resilience and a strong performance.

I found some classification errors and it would be good to see these reduce. However, I'm satisfied that these are minor record keeping matters only; there appears to be no systemic problem.

I found evidence to suggest that one provider in particular is not doing well in terms of complying with awards in a timely manner. This isn't CISAS' fault, and they have handled queries from customers professionally.

I found no particular complaint themes, nor anything unexpected, from the cases I examined. They included a range of service and administration issues, which in my view CEDR dealt with to a good standard.

CEDR's replies to customers were generally of a high quality, and I welcome the focus the organisation is placing on resolving complaints at the first stage of the process.

(9) 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 pages 6 & 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

Independent Complaint Reviewer

3 September 2020