

**Centre for Effective Dispute Resolution (CEDR)**  
**Independent Complaint Reviewer Report For 2021.**

**1. Introduction**

This is my tenth report for CEDR. It covers schemes and services operated by CEDR except those that I review in stand-alone reports – that is, the Communications and Internet Services Adjudication Scheme (CISAS); the Postal Redress Scheme (POSTRS); and the Aviation Adjudication Scheme.

**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 the level of service provided by the schemes or services run by CEDR. I can review cases where a user of those schemes or services has complained to CEDR and, having been through the complaints process, remains dissatisfied with the outcome.

Under my terms of reference<sup>1</sup> I can only consider matters relating to CEDR's quality of service in respect of alleged administrative errors, delays, staff rudeness or other such matters. I cannot consider the merits or otherwise of decisions made by CEDR's adjudicators; nor can I investigate or review the substance or outcomes of applications made by claimants. Where appropriate, I may make recommendations based on my findings.

The second aspect of my role is to review complaints about CEDR generally, and produce two reports each year. These are based on my findings from reviews of individual complaints, if there are any; and by examining and analysing as I see fit any service complaints that CEDR receives.

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<sup>1</sup> <https://www.cedr.com/wp-content/uploads/2021/10/IR-Terms-of-Reference-v2.5.pdf>

### **3. CEDR's Complaints Procedure**

The complaints procedure<sup>2</sup> explains its scope and what happens when a user of a scheme or service makes a complaint. There are two internal stages of review that take place before, if required, 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 manager or 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**

My quantitative findings incorporate those from my interim report of 15 September 2021 and cover the full year from 1 January to 31 December, as do my qualitative findings on timescales. My findings on casework and outcomes focus only on 1 July to 31 December. My interim report of 15 September 2021 covered the first half of the year in this respect.

Excluded from this report are those schemes or services about which CEDR received no complaints.

Two complaints were referred to me under Stage 3 of CEDR's complaints procedure – both during the first half of 2021. One was about the Consumer Code for Home Builders Independent Dispute Resolution Scheme (CCHBIDRS); the other was about the Solicitors Regulation Authority (SRA) Independent Review Service. I provided commentary on both cases in my interim report.

### **5. My Findings**

#### **(a) Quantitative**

I examined those schemes or services about which CEDR received complaints in 2021; other schemes or services that were not the subject of any complaints are outwith the scope of this review. Table 1 overleaf gives a breakdown of the volumes of cases that went to adjudication and the outcomes.

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<sup>2</sup> <https://www.cedr.com/wp-content/uploads/2021/10/CEDR-Complaints-Procedure-oct-21.pdf>

Table 1: Claims and outcomes

Scheme	Claims Received	Claims Adjudicated	Found For Claimant	Partly Found for Claimant	Found For Respondent
Build-Zone <sup>3</sup>	4	3	0	2	1 (Withdrawn claim)
Consumer Code for Home Builders Independent Dispute Resolution Scheme (CCHBIDRS)	305	191	70	45	76
Independent Healthcare Sector Complaints Adjudication Service (ISCAS) <sup>4</sup>	107	79	n/a	n/a	n/a
Royal Institution of Chartered Surveyors (RICS)	376	298	28	48	222
Solicitors Regulation Authority <sup>4</sup> (SRA)	68	76	n/a	n/a	n/a
Water & Sewerage Service (WATRS)	515	326	104		222
<b>Totals</b>	<b>1375</b>	<b>973</b>	<b>297</b>		<b>521</b>

The ratio of adjudications to claims received was 71% (consistent with 2020 which was 74%). The remaining 29% were either outside the scope for investigation by CEDR or were settled without progression to adjudication.

Overall claims (for those schemes or services about which complaints were made) increased by 3% compared to 2020 – from 1339 to 1375.

Two schemes about which there were complaints in 2020 received none in 2021: The Funeral Conciliation & Adjudication Scheme; and the Regulator of Social Housing.

<sup>3</sup> One Build-Zone claim was in the pipeline, awaiting outcome

<sup>4</sup> The ISCAS and the SRA are complaints review services and do not have adjudication outcomes. Some SRA decisions reached in 2021 were in the pipeline from 2020, hence the number of claims adjudicated in 2021 is higher than the number of claims received.

The following schemes' claims increased in 2021: -

- CCHBIDRS by 21%
- ISCAS by 4%
- RICS by 2%
- WATRS by 23%

Applications to the SRA Independent Complaints Review Service decreased by 7%.

On claims where an adjudication outcome was reached during 2021<sup>5</sup> CEDR found wholly or partly for the claimant in 35% of cases, compared to 55% in 2020.

I include these data to provide context in respect of the schemes/services about which CEDR received complaints. Information about each scheme or service is available on CEDR's website:

<https://www.cedr.com/consumer/>

Table 2 below shows the total claims for each scheme or service about which complaints were made, together with the number and percentage of service complaints against each scheme. It also shows whether the complaints were in scope, partly in scope or out of scope; and what the outcome was for those complaints that were in or partly in scope.

Table 2: complaints and outcomes

Scheme	Total Claims	Service Complaints	%age	In Scope	Partly in scope	Out of scope	Upheld in full	Partly upheld	Not upheld
Build-Zone	4	1	25.0	0	0	1	0	0	0
CCHBIDRS	305	10	3.3	0	5	5	0	3	2
ISCAS	107	4	3.7	1	0	3	1	0	0
RICS	376	6	1.6	0	2	4	0	2	0
SRA	68	5	7.3	0	1	4	0	1	0
WATRS	515	11	2.1	1	7	3	0	2	6
Totals	1375	37	2.7	2	15	20	1	8	8

Allowance needs to be made for those schemes or services where volumes are low – thus one or two complaints equate to a high percentage. Build-Zone is a particular example of this.

<sup>5</sup> Excluding the ISCAS and the SRA, which are complaint review services rather than ADR schemes.

I found only one classification error, which CEDR have corrected. Table 2 shows the right figures.

CEDR received 37 complaints out of the 1375 claims handled by those schemes or services covered by this report – representing 2.7%. This is 0.6 of a percentage point higher than in 2020, which is an insignificant movement.

## **(b) Qualitative**

### **(i) Timescales (2021 full year)**

Acknowledgement speed improved significantly compared to 2020; Stage 1 review timescales declined slightly.

CEDR acknowledged 78% of complaints within one working day; 96% within two working days; 98% within three working days; and 2% (one case, in the first half of the year) took six working days.

This is an improvement on 2020, when CEDR acknowledged only 52% of complaints within one working day and 14% overran by more than three working days.

CEDR completed 88% of Stage 1 reviews within 30 working days, down from 100% in 2020. The average response time was 20 working days (four days slower than in 2020), with a range of three to 42 working days.

### **(ii) Casework and Outcomes (1 July to 31 December 2021)**

I examined the 12 complaints that went through CEDR's complaints procedure between 1 July and 31 December.

CEDR's Stage 1 responses were in my opinion of a generally high standard, with excellent summaries and explanations in respect of the scope of the complaints procedure. I was also pleased to see that in every case that was out of scope CEDR nonetheless gave a comprehensive response to the various points the complainant had raised – for example, explaining the basis of the scheme or service and the relevant elements of the process.

Below I comment on the complaints CEDR received in the second half of the year about each scheme or service.

## CCHBIDRS: six complaints.

Two complaints were partly in scope.

The first concerned a Reasonable Adjustments request and issues about the adjudication process. There was considerable correspondence between the customer and CEDR, culminating in the former threatening legal action (which didn't materialise).

I don't want to risk compromising confidentiality by giving details of the customer's disability – suffice to say that CEDR had, in my opinion, offered a number of Reasonable Adjustments in order to accommodate him. The customer asserted that these weren't good enough and pursued his complaint.

CEDR's Stage 1 reply was very good, with an excellent summary of the complaint. It explained why certain aspects were out of scope; and outlined the steps that CEDR had taken, and that the customer had declined, in respect of Reasonable Adjustments. It also explained why the customer's request for an oral hearing with the adjudicator could not be met. There was one service failing, where CEDR missed a call back to the customer due to staff illness – for which they offered £30.00 compensation.

After the Stage 1 response, the customer submitted a Subject Access Request – which CEDR complied with promptly. The customer also said he'd contacted the Equalities and Human Rights Commission and they would be writing to CEDR, although CEDR tell me they heard nothing further. I'm satisfied that the majority of this complaint was groundless and CEDR's response was entirely reasonable.

The second complaint was from a homebuilder, who felt that they hadn't been able to defend a claim fairly. The crux of the matter seemed to be that they felt they hadn't had a chance to deal with the house owner's complaint before CEDR took it on; and that there had been a lack of notification at various stages of the process because CEDR sent emails to an incorrect address. There were also complaints about a delayed response to an email query, and CEDR's invoicing.

The Stage 1 reply stated the complaint was out of scope, when in my view it should have been partly in scope as it included some customer service matters. (CEDR agreed, and have amended their records accordingly.) I am however satisfied that CEDR reviewed all the issues. They showed that the homebuilder had actually responded to the house owner's complaint before it was referred to CEDR; and that notifications had been sent as per the claims process.

(It transpired that some of these had found their way into a spam folder, which is not down to CEDR.) The Stage 1 review also found that there had been no delay in responding to the homebuilder's queries; and that invoicing issues were outwith the scope of the complaints process. I'm content that CEDR were right in not upholding the service elements of this complaint; and the rest of it was out of scope.

Four complaints were out of scope.

The first contained numerous issues about the adjudicator's decision, and the Scheme's rules and processes. As such it was clearly out of scope, but CEDR's Stage 1 review addressed all the points raised.

There was a dispute over what version of the rules were in force at the time of the complaint, and I'm satisfied CEDR dealt with this correctly.

The customer also complained that the adjudicator's final decision included Latin phraseology, when he'd expected "plain English". The customer has a point in my view, and I was pleased to see that feedback was given to the adjudicator accordingly.

One other point struck me on this case. The customer complained that by sharing his comments on the proposed decision with the homebuilder CEDR had breached confidentiality. This isn't the case but in explaining that to the customer the Stage 1 reviewer said that the Scheme was totally transparent as per the rules. Whilst in my view it is implicit throughout the rules (and the guidance to customers), there isn't a specific rule covering transparency that I can see. The customer made the same observation and became somewhat fixated on this point. In the end the matter couldn't be taken any further as it was out of scope and the case was, rightly, closed. I would however constructively suggest that in future CEDR take care when making generalised statements about the rules.

The second case was out of scope as it concerned the adjudication. In essence, the adjudicator made a mistake and awarded considerably more for inconvenience than the £500.00 allowed under the Scheme's rules. When the customer was informed that the award had to be reduced, not surprisingly she complained.

CEDR's stage 1 review was, again, very good. It explained the error in full but correctly said that as the complaint related to adjudication matters it was out of scope. CEDR nonetheless awarded the customer £50.00 by way of a goodwill payment – which was nowhere near the amount she felt she'd been deprived of.

This was a tricky one; strictly speaking CEDR didn't have to do anything as there was no customer service issue involved and the matter in question was outwith the scope of the complaints procedure. On the other hand, it was a serious mistake that the adjudicator should not have made. Personally I'd have preferred it if CEDR had gone further on a discretionary basis - but that's just my view, and I understand why the complaints procedure excludes such matters. In the event, and to their credit, the homebuilder voluntarily made a reasonably large extra payment to the customer.

The third complaint was wholly about the time allowed (56 calendar days) for a homebuilder to deal with a complaint before it can be referred to the Scheme. This is set out clearly in the rules and the guidance to customers, however the customer chose to ignore it and then complained that CEDR wouldn't issue a decision. CEDR's Stage 1 response gave a clear and polite explanation of the situation and pointed out that the customer hadn't made a formal complaint to the homebuilder. I understand that a complaint was made later, and CEDR advised the customer of when he could make a claim should the homebuilder not resolve the matter.

The fourth complaint was from a homebuilder, who complained of unfairness as all correspondence was conducted by email. CEDR's emails had gone to the homebuilder's spam folder and they missed the chance to submit a defence. They felt CEDR should be posting documents and making phone calls. They asked for two claims to be revisited.

The matter was entirely about process, so at Stage 1 CEDR correctly stated it fell outside the scope of the complaints procedure. However, they explained that the email process had been in place for a number of years but that they would be introducing a phone call element to let homebuilders know when a new case notification had been sent. In polite terms, CEDR also explained that it's the homebuilder's responsibility to monitor their emails (which is fair enough in my view).

As regards posting documents, CEDR explained that since the Coronavirus pandemic staff had been working from home so this was not practical, but that it may be reintroduced. The two claims could not be reopened under the rules of the Scheme, but CEDR did point to another case that had been found in the homebuilder's favour – thus refuting the allegation of unfairness. The Stage 1 response in its entirety was of a very high standard in my opinion.

### ISCAS: one complaint.

The complaint was correctly ruled out of scope. It was from a healthcare provider rather than a patient, and is far too detailed to go into here (as well as being inappropriate to do so). The matter concerned the handling and approach to a claim, and the subsequent outcome and cost.

The Stage 1 reply explained why the matter was outside the scope of CEDR's complaints procedure (there were no customer service issues involved) but did address the points raised; and took on board some feedback about the need for possible additional guidance/instructions for healthcare providers.

The provider was far from happy. They complained that the Stage 1 response was outside the prescribed timescale (I checked and it wasn't), and made a number of strong allegations about the nature of the ISCAS. CEDR handled these at Director level outside of the complaints procedure, which was the right approach in my view.

### RICS: one complaint.

CEDR correctly ruled the complaint out of scope, as it concerned elements of the claims process that the customer felt were unfair rather than any customer service issues.

CEDR answered all the points at Stage 1, but the customer disputed the out of scope ruling by making an unusual interpretation of the criteria under which a complaint could be accepted – basically arguing that suggestions for improvements fell within scope, and that was what he was making. Whilst CEDR do indeed say they will consider such suggestions, it isn't the case that those suggestions automatically fall within scope of the complaints procedure. So in my view CEDR were right to maintain their position, and to reject the customer's escalation request.

### SRA: one complaint.

CEDR's Independent Complaints Review Service for the SRA is not an adjudication scheme – it can only review the SRA's own complaint handling. In this case, the customer questioned the independence of the Service along with some points about process and CEDR rightly ruled the complaint out of scope.

However, before the formal complaint was lodged I feel that CEDR could have better handled the customer's enquiries.

Without going into the detail, a CEDR staff member sent a response to the customer saying that his queries had been referred to "management". Sometime later the customer asked what "management" had said and was then told that his queries couldn't be answered as they are "better addressed by a member of management", and he was referred to the complaints procedure. I also noted that the staff member mentioned the Service's rules – when in fact the Service has guidance notes only.

In my view this isn't acceptable – the answers should either have been obtained and given to the customer, or the matter should have been referred to a manager to reply. In the event the customer submitted a formal complaint and emailed a Director.

CEDR's Stage1 response was good. It explained that all the information in respect of the Service's process was available on the website and in the application form; and it described how the Service worked independently of the SRA.

#### WATRS: three complaints.

I said in my interim report that I'd monitor WATRS' Stage 1 replies as I felt that they didn't always make the scope classification clear. I'm happy to report that this was not an issue in the three cases that I examined in the second half of the year.

Last time, I also observed that CEDR didn't fully answer all the points raised by customers and I made a recommendation accordingly. Given that there were only three complaints in the second half of the year it's difficult to assess this – but I felt that one of them left unanswered questions, so I've decided to carry the recommendation forward.

One case was in scope.

The customer felt that WATRS had been obstructive and had delayed sending him the claim form.

The Stage 1 response covered the main issue, explaining when WATRS had sent the customer the form and pointing out that it had not been returned.

It also demonstrated that over six months had elapsed before the customer pursued the matter, meaning that the claim was out of time under the Scheme's rules. CEDR did not therefore uphold the complaint.

Notwithstanding that the customer didn't return the form, the Stage 1 response failed to address the customer's complaint that he'd had to chase a WATRS' staff member several times to get the form initially. On balance, I don't think this would have made any difference to the outcome but it's disappointing that CEDR left this point unanswered.

Two cases were partly in scope.

The first was not all that coherent and, to be honest, the customer was very rude in his tone. But the gist was that the customer didn't like the decision on his claim and he was unhappy with several of CEDR's team members.

The Stage1 reply was of a high standard and dealt with all the points the customer had raised (as far as they could be deduced). It explained that some of the matters about which the customer was complaining had not been raised earlier, so WATRS could not have been expected to respond to them. I was pleased to see that CEDR told the customer that the comments he'd directed at staff were unacceptable. The complaint was not upheld, and rightly so in my view.

The second case was about an adjudicator's decision to uphold the water company's objection to a claim, and a complaint that the Scheme's rules were inconsistent and prohibitive. There had also been a problem in notifying the customer about the decision.

The Stage 1 response was again of a high standard. CEDR offered the customer £15.00 compensation, as there had been a technical glitch with the automated notification of the decision. However, they demonstrated that the administration team had in fact notified the customer separately. CEDR correctly judged the remainder of the complaint to be out of scope, although they made it clear that the adjudicator had seen the customer's comments before reaching the decision.

## **6. Conclusion**

The frequency of complaints about CEDR's quality of customer service in relation to the total number of claims in 2021 remained low at 2.7%.

Speed of acknowledgment improved significantly year on year, from 52% in one working day in 2020 to 78% in 2021. There was also an improvement in acknowledgements taking longer than three working days, which stood at 14% in 2020 but was down to only 2% in 2021. It would however be good to see the one working day performance improve further.

Average Stage 1 response times were well within target but declined slightly from 16 working days in 2020 to 20 working days in 2021. Fewer reviews were completed within CEDR's 30 working day target (88% compared to 100%). This doesn't warrant a recommendation – and the performance was better in the second half of the year; but I'd urge CEDR to keep an eye on the situation.

Of those schemes or services that handled > 100 claims and that received complaints, RICS performed best with 1.6% of claims being the subject of a complaint.

As in 2020, ISCAS had the highest percentage of service complaints (of those that handled > 100 claims) with 3.7% of claims being the subject of a complaint (down from 5.8% in 2020). However, ISCAS handled only just over 100 claims, so a couple of complaints can have a disproportionate impact on the percentage.

In my view CEDR's complaint handling over the year has been of a good standard: volumes are low, the process is working well and replies are of a generally high standard.

That said, whilst I'm not minded to make any new recommendations there are perhaps a couple of areas that CEDR could pay attention to: -

- taking care when making generalised statements about the rules; and,
- with particular reference to the SRA Service, answering customer queries in full before referring them to the complaints procedure; and ensuring that staff are aware that the Service has guidance notes rather than rules.

## **7. Follow up on previous recommendations**

I made two recommendations in my most recent (interim) report. These are shown in italics below, followed by a comment.

- (a) That CEDR make efforts to improve the accuracy of complaint classification so that, in turn, internal data are accurate.*

I found only one classification error in the second half of the year, compared to five during the first half. I'm satisfied that I can therefore close this recommendation in respect of the schemes and services covered by this report.

- (b) With particular reference to WATRS, that CEDR ensure that all points raised by complainants are addressed at Stage 1 so that customers receive comprehensive responses.*

I felt that one out of the three Stage 1 reviews that I examined in the second half of the year did not respond to all points raised by the customer, so I'm leaving this recommendation open.

## **8. Recommendations**

I am carrying forward one recommendation: -

- (a)** With particular reference to WATRS, that CEDR ensure that all points raised by complainants are addressed at Stage 1 so that customers receive comprehensive responses.

## **Acknowledgements**

I conducted my review remotely and I'm again grateful to CEDR for facilitating this with the necessary technical support. I've had open and unrestricted access to all the systems and records that I needed so, as usual, have had carte blanche in respect of conducting this audit as I saw fit. I've also had the customary high level of assistance with the various points that came up as I conducted my review. I appreciate in particular the responses from CEDR's Head of Consumer Services and their Complaints Manager to the queries that I raised.



Chris Holland  
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14 February 2022