

Centre for Effective Dispute Resolution (CEDR)
Independent Complaint Reviewer Report July – December 2022.

1. Introduction

This is my twelfth report covering schemes and services operated by CEDR other than those that I review individually (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 reference¹ 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 a report every six months. The report is 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.

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

3. CEDR's Complaints Procedure

The complaints procedure² 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 set out clearly with timescales and information about what can be expected. In brief, if after the first stage response to a complaint a customer remains dissatisfied they can ask for escalation to stage two of the process where a senior manager will review the complaint. If this does not resolve the matter, the complaint can be referred to me for independent review.

4. This Report

I examined all complaints received by CEDR (apart from those covered in my separate reports) between 1 July and 31 December 2022.

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

No cases were referred to me for independent review during this reporting period.

5. My Findings

(a) Quantitative

I examined those schemes or services about which CEDR received complaints during the second half of 2022. Table 1 below gives a breakdown of the volumes of cases that went to adjudication and the outcomes.

² <https://www.cedr.com/wp-content/uploads/2022/07/CEDR-Complaints-Procedure-July-22.pdf>

Table 1: Claims and outcomes

Scheme	Claims Received	Claims Adjudicated	Found For Claimant	Partly Found for Claimant	Found For Respondent
Consumer Code for Home Builders Independent Dispute Resolution Scheme (CCHBIDRS)	171	54	10	19	25
Consumer Code for New Homes (CCNH)	26	10	6	4	0
Independent Healthcare Sector Complaints Adjudication Service ³ (ISCAS)	62	14	n/a	n/a	n/a
Royal Institution of Chartered Surveyors (RICS)	333	166	23	44	99
Solicitors Regulation Authority ³ (SRA)	42	29	n/a	n/a	n/a
Water & Sewerage Service (WATRS)	278	175	56		119
Totals	912	448	162		243

The ratio of adjudications to claims received was 49% (16 percentage points lower than the previous six months). The remaining 51% were either outside the scope for investigation by CEDR or were settled without progressing to adjudication.

On claims where an adjudication outcome was reached during the second half of 2022,⁴ CEDR found wholly or partly for the claimant in 36% of cases (compared to 40% in the previous six months).

I include these data for context only. Information about each scheme or service is available on CEDR's website, at:

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

³ The ISCAS and the SRA are complaints review services and do not have adjudication outcomes.

⁴Excluding the ISCAS and the SRA, which are complaint review services rather than ADR schemes.

CEDR received 14 complaints out of the 912 claims handled by those schemes or services covered by this report – representing 1.5% (0.8 of a percentage point lower than the previous six months).

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
CCHBIDRS	171	2	1.2	0	0	2	0	0	0
CCNH	26	1	3.8	0	1	0	0	1	0
ISCAS	62	1	1.6	0	0	1	0	0	0
RICS	333	4	1.2	1	1	2	1	0	0
SRA	42	1	2.3	0	0	1	0	0	1
WATRS	278	5	1.8	1	2	2	0	2	1
Totals	912	14	1.5	2	4	8	1	3	2

(b) Qualitative

(i) Timescales

Compared to the previous six months, speed of acknowledgement declined marginally, as did the percentage of Stage 1 reviews completed within timescale. However, the overall performance was still good.

CEDR acknowledged 86% of complaints within one working day. Two acknowledgments (14%) took longer than three working days. The respective results in the previous six months were 89% and no cases going over three working days.

CEDR completed 93% of Stage 1 reviews within 30 working days (compared to 95% last time). The average response time was 22.7 (compared to 21.5 last time), with a range of three to 33 working days.

(ii) Casework and Outcomes

I examined the 14 complaints that CEDR handled between 1 July and 31 December 2022.

CEDR's Stage 1 responses were of a good standard, with consistently excellent summaries and explanations regarding the scope of the complaints procedure. I found no typographical errors. I have a couple of concerns in respect of WATRS, which are covered in the case synopses and are the basis of two recommendations.

Below I comment on the complaints about each scheme or service.

CCHBIDRS: two complaints.

Both complaints were out of scope.

The first was almost entirely about the adjudication and the treatment of the responses made by both parties to the adjudicator's Preliminary Decision (PD). CEDR's Stage 1 response was thorough in explaining the position. However, the customer had also complained that he'd been promised a call back when he'd queried the PD point, and that this hadn't happened. CEDR's Stage 1 reply explained that they had referred the matter to the adjudicator, who had confirmed that he'd taken account of the responses; but I was disappointed to note that no explanation was given for the failure to call back the customer. I also felt that, strictly speaking, this complaint ought to have been classified as partly in scope as the failed call back was a customer service matter.

The second complaint was wholly about the adjudication process, thus out of scope. CEDR's Stage 1 response gave a clear explanation of why that was the case.

CCNH: one complaint.

The customer complained that CEDR had failed to return three calls, and was unhappy about aspects of the outcome of his claim. The Stage 1 review couldn't locate one of the calls and asked the customer for further details (to which there was no response). The reviewer listened to the two other calls and concluded that they fell below standard – essentially in both cases CEDR's staff member had to check something but never called the customer back with the answer. CEDR offered £25.00 compensation, which was in my opinion reasonable.

ISCAS: one complaint.

The complaint was out of scope.

The complaint was wholly about the ISCAS process and the decision reached. CEDR rightly judged it out of scope and their Stage 1 response gave a full explanation of why that was the case.

RICS: four complaints.

One case was in scope; one was partly in scope; and two were out of scope. CEDR upheld the in scope complaint; the remainder were not upheld.

The in scope case concerned an error regarding the timescale in which the customer could comment on the adjudicator's Preliminary Decision – in short, the Final Decision was issued before the deadline for the customer's comments had passed. It transpired that CEDR had granted an extension for the customer's comments as he was abroad, but due to an administrative error they hadn't adjusted the due date for the Final Decision. CEDR's Stage 1 response was of a good quality – they apologised, gave the customer leave to make his comments and for them to be considered, and awarded £75.00 compensation.

The partly in scope case concerned confusion over whether the company involved was regulated by RICS (which is a requirement if CEDR are to accept the claim for adjudication). RICS originally said the company wasn't regulated, but this turned out to be wrong. This led to a delay – for which the customer seemed to blame CEDR, although it was clearly not their fault. CEDR's review established that they had kept the customer informed via the on-line case management system, and that they had followed their process correctly. The complaint was, rightly in my view, not upheld.

One of the out of scope cases concerned the way in which the adjudicator had treated a piece of evidence. The customer was also unhappy about CEDR's complaints procedure not allowing appeals against the decision. The complaint contained no customer service or administration elements and CEDR's reply gave a clear explanation of why it was out of scope.

The other out of scope complaint was a straightforward disagreement with the adjudicator's decision.

SRA: one complaint.

The complaint was out of scope.

CEDR provides an independent complaint review service for the SRA, which isn't an adjudication scheme and can only review the SRA's own handling of a complaint.

The complainant disputed the independence of CEDR's review and alleged that they were not compliant with the Equality Act (2010). There was some confusion about whether the complaint had been submitted within the allowable timeframe, which turned out to be down to an error by CEDR.

The Stage 1 review explained why the complaint was out of scope and, with reference to its Reasonable Adjustments policy, confirmed that CEDR were compliant with the Equality Act.

The customer continued to complain about the confusion over the timeframe, and CEDR explained their error and made an apology.

Whilst the essence of the customer's complaint was out of scope I feel that the confusion over the timeframe was the result of an administrative error and should have been considered as such. Ideally, I think CEDR should have awarded a small amount of compensation for their error and the inconvenience it caused.

WATRS: five complaints.

One case was in scope; two were partly in scope; and two were out of scope. CEDR upheld the in scope complaint; the remainder were not upheld.

Two cases featured complaints about WATRS' on-line case management system. CEDR are aware that the system could be more user friendly and at the time of my last review I'd understood that they were working on improvements. However, the problems still seem to persist so I'm now making a formal recommendation that CEDR investigate solutions as soon as possible.

Stage 1 replies were of a good standard and I was pleased to see that all points raised by customers were dealt with. I am therefore content to close my previous recommendation on this issue.

The in scope case was about the customer not being notified of the water company's objection to her claim, and the need for an Authority to Act form – which was necessary as someone else was representing her. Things became a little confused as the customer had given two email addresses at different stages, but CEDR's review established that the notifications had in fact been sent and there was nothing to suggest a problem with their delivery. The customer accepted CEDR's findings and the case was closed.

The first of the partly in scope cases was long and complex, and at the time of writing it was in the pipeline for a Stage 2 review. It featured some 20 complaints – a mixture of disagreements with the adjudication itself, unhappiness with the process, and customer service and system issues. The Stage 1 response unpicked the in scope points, which boiled down to a couple of administrative issues for which CEDR offered £20.00 compensation. The reply was of a good quality in my opinion but the customer rejected it. Despite repeated attempts by CEDR to establish exactly what was outstanding and what remedy was sought, the customer could not or would not say. He also became increasingly rude and disrespectful in his communications. Nonetheless, CEDR agreed to escalate the case for a Stage 2 review. I give them credit for doing so when the grounds were, to say the least, unclear.

There was however an aspect of the case that concerned me. The customer complained about the confidentiality clause attached to the adjudication decision in respect of his claim. This says: *"This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision."*

The customer's complaint concerned an issue which also affected his neighbours and he felt that he should be allowed to share the decision with them. I agree, and in fact the Stage 1 response said that would be ok and that the clause was intended to stop the decision being published on social media. This begs the question why, if the decision can be shared with neighbours, is there a confidentiality clause? I also fail to see why a customer shouldn't put the decision on social media if they wanted to – I'd argue that once given to them, the decision is theirs to do with as they wish.

This issue arose in 2020 in relation to two other schemes operated by CEDR. I raised it then and understood that the clause would be removed in due course. For reference, I attach at Appendix 1 my arguments. As the clause has now come to my attention on a WATRS case, I'm recommending that CEDR review it with a view to its removal.

The second partly in scope case concerned system issues that caused delays in the customer obtaining his remedy, along with a complaint about the adjudication process. The latter was out of scope, but CEDR's Stage 1 review identified two system errors for which they apologised and awarded £40.00 compensation. The Stage 1 reply was of a very good standard in my view – explaining the out of scope elements of the complaint and dealing effectively with the in scope matters. The customer accepted both the adjudication decision and the complaint outcome.

Both out of scope complaints were unremarkable and were entirely about the adjudication decision. CEDR's Stage 1 responses gave clear explanations of the position.

6. Conclusion

The proportion of complaints that CEDR received in relation to the number of claims handled in the second half of 2022 was low at 1.5%.

Speed of acknowledgment and Stage 1 reviews completed within target (30 working days) were good, although marginally down on the previous six months.

Of those schemes or services that handled > 100 claims and that received complaints, CCHBIDRS and RICS performed best with 1.2% of claims being the subject of a complaint. WATRS had 1.8%.

CEDR's complaint handling continues to be of a good overall standard. In my opinion, replies to customers were well written with clear explanations. I was pleased to note that all points were answered on WATRS cases.

Issues with WATRS on-line case management system seem to persist and I urge CEDR to focus on improving the customer experience in this respect. I would also like CEDR to consider removing the confidentiality clause attached to WATRS's final decisions.

7. Follow up on previous recommendations

I brought forward one recommendation from my last report, as follows: -

- (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.*

Based on this review, I'm satisfied that this issue has now been addressed and the recommendation can be closed.

8. Recommendations

I have two recommendations, both in relation to WATRS:

- a) That CEDR investigate solutions to the continuing problems with WATRS' on-line case management system, so that the customer experience is improved.
- b) That CEDR review the confidentiality clause attached to adjudicators' decisions with a view to its removal, so that claimants are not restricted in sharing the decision with others if they so wish.

Acknowledgements

I conducted my review remotely, with full access to the systems and records that I needed to examine the casework. I'm grateful to CEDR for facilitating this – and I had carte blanche in respect of conducting this audit as I saw fit.

I'm grateful, too, for CEDR's help with the few queries that came up during my review. I appreciate in particular the quick and helpful responses to my enquiries from CEDR's Head of Consumer Services and their Complaints Manager.



Chris Holland
Independent Complaint Reviewer
14 February 2023

APPENDIX 1

Extract from CISAS Independent Complaint Reviewer Report January – June 2020 (dated 3 September 2020).

“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.”