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Response to SRA supplementary consultation – "Changing our requirements on first-tier complaints"

AUGUST 2026

Response of the Professional Regulation Committee of the Birmingham Law Society to the SRA's supplementary consultation – "Changing our requirements on first-tier complaints"

This response has been prepared by the Professional Regulation Committee of the Birmingham Law Society. The Society is the largest local law society with some 9,000 members from all branches of the legal profession and practising in all aspects of law. The response represents the collective views of the Professional Regulation Committee whose members include specialists practising in all aspects of professional regulation and compliance for the legal profession.

Question 1

Do you agree with our proposal to add a new requirement that, when a complaint is first notified, clients are provided with a timeline for resolution of their complaint? Please give reasons for your answer.

Answer

We disagree with this proposal for the following reasons:

a. The proposed new requirement is unnecessary and adds little or nothing of value to the existing rules

The existing rules that apply to complaints handling already oblige firms to provide clients with extensive information about timing. Specifically:

- Rule 8.3 of the SRA Code of Conduct for Solicitors, RELs, RFLs and RSLs (which applies equally to firms) provides as follows:

  8.3 – You ensure that clients are informed in writing at the time of engagement about:
  a) their right to complain to you about your services and your charges;
  b) how a complaint can be made and to whom; and
  c) any right they have to make a complaint to the Legal Ombudsman ***and when they can make any such complaint****.* [Emphasis added]

- Rule 2.1 of the SRA's Transparency Rules:

  An authorised body … must publish on its website details of its complaints handling procedure including, details about how ***and when*** *a complaint can be made to the Legal Ombudsman and to the SRA.* [Emphasis added]

  This rule is supplemented by the SRA's guidance on the same topic.[1]

- Rule 3.2 of the Legal Ombudsman's Scheme Rules (1 April 2023), which is in the following terms:

  3.2 Authorised persons including legal practitioners and others must comply with their Approved Regulator's rules on handling complaints, including any requirements specified by the Legal Services Board.

  The Legal Services Board has required that:

  a) authorised persons tell all clients in writing at the time of engagement, or existing clients at the next appropriate opportunity that they can complain, how and to whom this can be done;
  b) this must include that they can complain to the Legal Ombudsman at the end of the authorised person's complaints process, ***the timeframe for doing so*** *and full details of how to contact the Legal Ombudsman;*
  and
  c) authorised persons tell all clients in writing at the end of the authorised person's complaints process that they can complain to the Legal Ombudsman, ***the timeframe for doing so*** *and full details of how to contact the Legal Ombudsman.* [Emphases added]

The combined effect of the above is as follows:

- Clients are already given details of the eight-week timeframe in which firms have to resolve a complaint at the time of engagement.
- Clients are already reminded of the period after which a firm's own complaints process will be exhausted.
- Clients can already, if they wish to do so, consult a firm's published complaints procedure – which must appear on the firm's website – for a reminder of the applicable timescales.

[1] The guidance to which we refer is this: SRA | Publishing complaints procedure | Solicitors Regulation Authority.

In light of the above, it is difficult to see what gap the proposed new rule will fill.

Moreover, it should also be emphasised that, where a firm has been insufficiently transparent in the information it has supplied to clients about complaints handling, the Legal Ombudsman ("LeO") has the power to reflect this in an uplift to any financial award that is made to the client. The LeO also has the power, under section 143 of the Legal Services Act 2007 (the "2007 Act"), to refer any conduct of potential concern – including a firm's approach to complaints handling – to the SRA.

Again, it is difficult to identify any need for the proposed new rule or to see any value it will add within the SRA's Codes of Conduct.

We note with interest the SRA's reference in the consultation document to the LeO's reported finding that complaints handling had been inadequate in 46% of the complaints it investigated in 2025-26. Specifically, the SRA cites LeO's findings that firms' complaints processes were "inconsistent or complex" and firms' attitudes "defensive" when handling complaints.[2] We are not in a position to comment on the accuracy of LeO's findings, but we note, regardless, that the proposed new requirement to provide clients with a timeline for resolution does not address LeO's particular concerns. If some firms' complaints handling is indeed deficient in the ways alleged, there are many other, better steps which SRA could usefully consider to improve the situation – such as, for example, the publication of a suitable warning notice, or even a detailed specimen complaints handling procedure that models the approach expected of firms.

In summary, what this new requirement does is create additional, in our view, unnecessary administrative burdens on the firms that do comply with the existing rules, and it is unlikely to change the behaviours of the (in our experience, minority) of firms that do not comply.

With the advent of generative AI, consumers are finding it easier than ever to make complaints (which we know the SRA will understand) and to produce correspondence quickly, sometimes at a rate which makes it difficult to manage how to respond. Imposing these new requirements will further encourage this, will make the process more difficult for firms and will not promote the genuine interests of consumers.

[2] Consultation document, page 6 of 13.

b. <u>The proposed new requirement is unclear in its scope, contains significant ambiguities and risks creating confusion</u>

The proposed new requirement is not only unnecessary but notably ambiguous in what it obliges firms to do. The key terms used – including "complaint", "timeline" and "resolution" – allow for different and conflicting interpretations, and are difficult to define in a way that can give clients or firms certainty as to what is expected. This will, in our view, result in confusion for firms, mismatched expectations as between clients and firms, and unnecessary satellite disputes over firms' approach to complaints handling, all of which will only distract from firms' efforts to resolve the complaints themselves as quickly and efficiently as possible.

To give an example, when is a complaint "first notified"? The proposed definition of "complaint", which is quoted in the draft Complaints Handling Statement (the "Draft Statement"), is extremely wide and encompasses any "oral or written expression of dissatisfaction" by any complainant who claims to have suffered some form of detriment. Is this to be understood literally as encompassing <u>any</u> expression of dissatisfaction, regardless of how trivial or minor, and regardless of how informally it may be articulated? If so, it appears that the proposed rule will apply in the most informal of circumstances – for example, when a client picks up the phone to their longstanding firm contact and happens to mention, in casual conversation, that they were a little unhappy about a recent bill. It is unclear whether a situation like this would engage proposed rule 8.3.1, but it is our firm view that it should not. It would not be in the interests of either clients or firms for the SRA to put unnecessary obstacles in the way of firms proposing quick, pragmatic solutions to clients' concerns, which are an integral part of good client service.

This also again creates additional, unnecessary burdens on firms. Firms already have to consider whether an expression of dissatisfaction is likely to amount to a "circumstance" or "claim" requiring notification to their professional indemnity insurers. They will also now have to consider whether any complaint invokes potential breaches of the Standards and Regulations ("STARs"), warranting a self-report.

Similarly, what is a "timeline for resolution"? Does "timeline" refer only to a deadline for provision of a substantive response or to something more detailed than that? If it is the former, the new requirement is unnecessary in light of the existing Legal Ombudsman rules (as described under (a) above). On the other hand, if it is the latter, the requirement will, in the case of anything other than the most straightforward of complaints, be unrealistic and very difficult for firms to comply with, for the reasons we explain immediately below.

The word “resolution” is problematic and open to interpretation. A firm’s view of what is required to achieve a resolution will often differ markedly from that of the client, whose expectations may be significantly (and sometimes unrealistically) elevated. Alongside this is the fact that firms not infrequently receive serial, tactical or vexatious complaints, which are largely unfounded and which often cannot, realistically, be “resolved” at all (again, more common given the impact of generative AI). Again, it is extremely difficult to understand how firms can, in most circumstances, provide a client with any timeline beyond a simple deadline for provision of a response – which, as above, is already a requirement under the existing rules.

It is also unclear whether the proposed new rule will apply universally to the many more complex complaints which firms receive – and, if it does, how this can possibly work in practice. Many such complaints, although they are expressed to engage a firm’s complaints procedure, are, in substance, claims for negligence. They do not merely take issue with a firm’s service but may make explicit allegations of negligence and seek damages for financial losses allegedly suffered. They are notifiable to the firm’s professional indemnity insurers and will usually fall to be dealt with most appropriately as claims under the Professional Negligence Pre-Action Protocol (the “Protocol”), not under the firm’s complaints procedure.[3] It is often unfeasible, in the case of complex complaints / claims such as these, for firms to provide any meaningful timeline for resolution, nor is any such requirement laid down by the Protocol. As matters stand, the existing SRA and LeO rules allow firms sufficient flexibility to adapt their processes in these situations and, for example, to determine that a matter will not be dealt with under the complaints process but under the Protocol instead. In view of the very wide proposed new definition of “complaint”, however, it seems that claims for negligence, as much as simple service complaints, will now explicitly have to be dealt with under the new rules.

These are not mere technical quibbles but significant problems which, left unaddressed, will leave firms with conflicting and potentially irreconcilable obligations. One ironic consequence of the change seems likely to be that firms’

[3] Pre-Action Protocol for Professional Negligence – Civil Procedure Rules – Justice UK. Note, in particular, section 1.1 of the Protocol, which states as follows: “This Protocol is designed to apply when a claimant wishes to claim against a professional … as a result of that professional’s alleged negligence or equivalent breach of contract or breach of fiduciary duty.”

complaints handling processes will become longer, more unwieldy and more difficult for clients to understand, as firms seek to provide expressly for a variety of expected scenarios brought about by the wording of the new rules. Such an outcome would, of course, be thoroughly counterproductive.

c. <u>The proposed new requirement will further increase the investigatory burden on an already overstretched SRA and LeO</u>

It is well known that the volume of complaints made about solicitors and firms continues to grow at a rapid rate. The trend seems to be accelerating as AI tools have become more common and more sophisticated, which allows clients and others to submit lengthy complaints at the touch of a button and, in some cases, without detailed thought. The LeO's own statistics evidence this recent rise: in 2025/26, the LeO received 14,259 new complaints – an increase of 37% on the previous 12-month period.[4] The SRA appears to be seeing a similar trend: according to a news item published in May 2026, the SRA saw a 58% year-on-year increase in the reports it received about potential misconduct in the six months to the end of April 2026.[5] As a result, both bodies now routinely take many months even to carry out even initial reviews of reports submitted to them and substantially longer periods to complete any resulting investigation.

The proposed new rule will add further to the investigatory burden on both the SRA and LeO, which, in turn, will result in additional cost being passed on to firms and ultimately to consumers. The ambiguities inherent in the wording of the proposed new requirements will leave firms unable to determine with confidence whether they are complying with their obligations and will leave it open to clients to complain that they are not. Serial and/or vexatious complainants will have yet another opportunity to weaponise the rules against the firms who have acted for them. The knock-on effect will be a disproportionate influx of new reports to the SRA and LeO, the majority of which are unlikely to raise concerns that could reasonably be deemed "serious". It is worth remembering that, in the rare circumstances where genuinely serious regulatory concerns do arise in relation about firms' complaints handling, the SRA is more than able to deal with these under its existing regulatory framework.

One of our concerns is the financial burden of these proposals. It is impossible to calculate what that may amount to. If, however, the incidence of complaints

[4] Legal Ombudsman 2025/26 annual complaints data and insight | Legal Ombudsman.
[5] SRA | New data reveals significant rise in reports and investigations | Solicitors Regulation Authority

rises, we anticipate that so too will notifications made to professional indemnity insurers. This is likely to create adverse market conditions, cause insurers to withdraw from the market, make insurance more difficult to obtain and/or more costly, and could lead to firms being unable to obtain cover. In the end, all this achieves is additional costs, which ultimately have to be passed to consumers, and less competition amongst firms as many struggle to survive in already difficult market conditions. The SRA has to act in a balanced way. These proposals, however, go too far, creating an imbalance which will harm the profession and, therefore, those that rely upon it, all for little or no appreciable benefit.

Question 2

Do you agree with our proposal to add a new requirement that clients are given regular updates on the progress of their complaint? Please give reasons for your answer.

Answer

We do not agree with this proposal.

Many of the concerns raised above in reply to question 1 apply equally to question 2. In the interests of concision, we do not repeat them in full. We add the following observations:

a. The proposed new rule is vague and unclear in its scope. As above, "complaint" itself is a problematic term that is very difficult to define in a way that balances the competing considerations we have outlined. The short point is that firms will struggle to know at what point their duty to provide regular updates has come into effect and will have to grapple with the requirements of competing sets of rules (for example, the requirements of the SRA's Codes of Conduct and those of the Professional Negligence Pre-Action Protocol).

b. More specific to rule 8.3.1(b) is the confusion created by the word "regular" and, in particular, the question of what constitutes a "regular" update on progress. For example, if a firm acknowledges a complaint and agrees to provide a full substantive response within four or even six weeks, will the firm be in breach of the rule if it does not contact the client again until the full four or six weeks have elapsed, even though the agreed response period will still be less than the eight weeks permitted by the rules? Will it be open to firms to agree not to provide "regular updates" to clients unless explicitly requested, or must firms give updates even when the client does not wish to receive them? The irony here is that the proposed rule would seem to impose a higher standard of service on firms when dealing with complaints than the Code of Conduct currently does on firms when dealing with a client's matter (rule 3.2 of the Code of Conduct for Solicitors, which mandates "only" that solicitors deliver client service in a "timely manner").

c. The vagueness of the requirement to provide "regular updates" will, almost inevitably, lead to satellite disputes between firms and clients. It will also generate numerous additional complaints and reports to the SRA and LeO, the vast majority of them trivial in nature and incapable on any analysis of amounting to a "serious" breach of the SRA's rules. This will, in turn, be damaging to the interests of clients, since it will force the SRA to allocate more resource to reviewing trivial matters and less to serious concerns that could have a substantial impact on clients. It will also, yet again, have a clear impact on firms as a result of the further costs that will inevitably be passed on to them in due course.

d. The proposed new rule is also wholly unnecessary. The existing rules already oblige firms to give clients certain information about their complaints handling processes and to respond to complaints within no more than eight weeks. Where firms fail, without good reason, to comply with the timescale, the affected client has the right to refer their complaint to the LeO, which can then apply appropriate sanctions. Against this backdrop, it is unclear what possible value the SRA sees in a firm sending general "progress" updates to a client <u>during</u> the eight-week period. Either party may, of course, contact the other if there is a need to do so in the meantime – for example, if the client wishes to have copies of documentation or the firm requires information before it can respond substantively – and an unreasonable failure by the firm to respond to such a request may, legitimately, attract sanction. If no such request is received, the firm's time will be better spent on investigating the complaint itself and in responding as soon as possible.

e. The proposed new rule, in short, defies common sense and portrays the consumer as defenceless and unable to deal with matters themselves. That may be true in very limited cases, but, for most consumers, if they want an update, they can – and will – ask for one.

<u>Question 3</u>

What are your views on our draft Complaints Handling Requirements Statement?

Answer

<u>General comments</u>

It is unclear what the SRA is trying to achieve through the Draft Statement, which seems to sit awkwardly between the proposed new rules that are to be added to the Codes of Conduct and the complaints handling guidance that is said to be forthcoming. The consultation paper explains, at p.10, that the Draft Statement will set out mandatory requirements but will be supplemented by guidance that is yet to be issued. It is also noted that the Draft Statement is to be published as part of the existing suite of Standards and Regulations.

It seems, in other words, that the Draft Statement is to be an additional set of rules by any other name. This will mean that the SRA's rules relating to complaints handling will be set out in different places within three different sets of rules (the Codes of Conduct, the Transparency Rules and the Draft Statement).

The SRA claims to be basing its mandatory requirements in large part on what it describes as "the applicable LSB Section 112 Requirements" (p.10 of the consultation). It is important to put this reference to "section 112" in its proper context, however. Section 112 ("Complaints procedures of authorised persons"), which sits within Part 6 of the 2007 Act, places very few obligations on the SRA. In particular, section 112(1)(a) obliges the SRA only to require firms to "establish and maintain procedures for the resolution of relevant complaints" – nothing more. There is no statutory obligation on the SRA to impose on firms any more extensive or specific obligations. Indeed, it is perhaps telling that the rest of Part 6 of the 2007 Act (sections 113-161) deals in detail with the powers and responsibilities of the Legal Complaints Service and LeO, not with the role of the SRA.

In this context, the Draft Statement, which will impose a plethora of new rules on firms, is a clear example of unnecessary regulatory overreach by the SRA and LSB. It is micromanagement of the most unhelpful variety. Again, we conclude that if the SRA has concerns about non-compliance with existing complaints handling rules, the normal course would be for it to produce a warning notice setting out those concerns and providing practical advice to firms as to how they can comply. Such an approach would be more consistent with the SRA's recent messaging as to how they plan to change, by focusing more on engaging with firms and attempting to understand the day-to-day pressures impacting the profession now.

<u>The proposed requirement to assess complaints "impartially"</u>

While some of the mandatory provisions in the Draft Statement do no more than restate the content of existing SRA rules (for example, the obligation to have a complaints procedure that enables clients to make a complaint free of charge, which reflects rule 8.5 of the Code of Conduct for Solicitors), others go much further.

One of these is especially concerning. Under the heading "Consumer confidence" appears a proposed obligation on firms to "assess complaints competently, diligently and **impartially**" [emphasis added]. Firms are, of course, already obliged to respond fairly to complaints, in the sense that they must, among other things, not take unfair advantage of clients, must not mislead clients and must be honest and open with clients when things go wrong (rules 1.2, 1.4 and 3.5 of the Code of Conduct for Firms). A requirement to respond to complaints "impartially", however, seems to go well beyond any of those existing rules and is of profound concern inasmuch as it risks eroding firms' fundamental right to defend themselves.

It must be remembered that many "complaints" made against firms are very far from clear-cut; many are put forward in an adversarial and aggressive manner; many are, in substance, claims for negligence; some are misconceived, tactical or even vexatious. Is the SRA seriously proposing that firms must respond to, say, claims for negligence "impartially", rather than in a manner that looks to the best interests of the firm (and, potentially, its insurers) by putting forward the firm's best arguments? Such a proposal is not only wildly unrealistic but also undermines core principles of natural justice by fettering firms' fundamental right to defend themselves. It is worth remembering that firms are <u>not</u> intended to be the impartial arbiter of complaints to which they are a party: if a client does not accept a firm's response, they have the right to escalate their complaint to the Legal Ombudsman – or to the courts, to the extent that a "complaint" may be a claim for negligence.

The adverse consequences of including this requirement will be serious and far-reaching, and will be equivalent to those we have outlined above. Clients will have yet another basis on which to complain about firms' handling of their complaint, which will, in turn, result in countless additional reports to the SRA and/or referrals to the LeO. Even more concerningly, however, if clients are given to understand that firms are responding to all complaints "impartially" in circumstances where firms must, in appropriate circumstances, defend themselves robustly, are they not at serious risk of being systematically misled, or even of losing trust and confidence in the solicitors' profession as a whole?

The definition of "complaint"

More fundamentally, as we have already indicated, the proposed definition of "complaint" within the Draft Statement is far too wide and fails to take account of at least two scenarios that frequently arise in practice:

- One is the fact that many straightforward, informal "grumbles" are capable of being resolved very quickly through an apology and/or a fee reduction. The proposed new requirements, read literally, will prevent firms from resolving concerns in this fast and unbureaucratic way.
- The other is the fact that the broadness of the proposed definition of "complaint" will encompass other matters – notably, claims for professional negligence and data protection complaints – which usually fall outside the scope of firms' complaints procedures and are governed by other regimes. Claims for negligence, for instance, are subject to the pre-action requirements of the Professional Negligence Pre-Action Protocol, whereas data protection complaints are subject to GDPR and guidance published separately by the Information Commissioner's Office. Both regimes are different to – and conflict with – the SRA's proposed new rules and Draft Statement.

In the circumstances, it is vitally important that the SRA revisits its proposed new definition and amends it to reflect the above concerns. The definition of "complaint" should be limited to formal complaints, which are either expressly put forward under a firm's complaints procedure or otherwise accepted by the firm for investigation under it. Straightforward, informal concerns and grumbles must remain capable of quick and easy resolution. Equally, firms must retain the ability to deal with non-standard, specialised complaints – including claims for negligence and data protection complaints – in accordance with whichever set of rules best applies.

Question 4
Are there any other areas you would find helpful for the guidance to cover?

Answer
None, save as set out above.

Question 5
Do you have any comments on the regulatory impact of our proposals on first-tier complaints? Please include any supporting evidence where you can.

Answer
We have no comments to make.

Question 6
Do you have any comments on our draft equality impact assessment? Please include any supporting evidence where you can.

Answer
We have no comments to make.

Question 7
Do you have any further comments relating to our work on first-tier complaints that you would like to share with us?

Answer

We reiterate that first-tier complaints are already more than adequately regulated by the SRA's / LeO's existing rules and do not require further and/or more specific provisions to be introduced. The SRA's expectations of firms are already specified in the Codes of Conduct and the Transparency Rules; more practical aspects are covered off by the LeO's Scheme Rules. Nothing further is needed.