

Pearn Kandola disproportionality audit

Recommendation 13: Review of decision-making processes in relation to solicitors' accounts and practising restrictions

March 2012

Contents

Introduction.....	4
Background	4
Audit scope	5
Population and sample size	6
Key headlines.....	8
Key recommendations	8
Outstanding accountants' reports	9
The procedure	9
Audit sample	9
Results.....	9
Conclusions	11
Recommendations.....	11
Late accountants' reports.....	12
The procedure	12
Audit sample	12
Results.....	12
Conclusions	13
Recommendations.....	14
Extension requests	14
The procedure	14
Audit sample	15
Results.....	15
Conclusions	16
Recommendations.....	17
Waiver requests	18
The procedure	18
Audit sample	19
Results.....	20
Conclusions	21
Recommendations.....	22
Annex 1	24
Outstanding accountants' reports	24
Late accountants' reports.....	25

Extension requests	26
Waiver requests	28
Late/ outstanding accountants' reports	29
Annex 2	30
Outstanding accountants' reports	30
Late accountants' reports.....	32
Extension requests	33
Waiver applications	37
Annex 3 - References	38

Introduction

1. The Solicitors Regulation Authority (SRA) commissioned Pearn Kandola (PK), a group of business psychologists specialising in the area of diversity, to research and report on the disproportionality of regulatory actions taken against black and minority ethnicity (BME) solicitors, as reported by Lord Ouseley in 2008.
2. In July 2010, PK's findings were published and a number of recommendations made. The SRA's Risk-Audit team was commissioned to carry out a detailed review of recommendation 13, which states:
'Similarly, a review of the decision-making process should also be undertaken for cases dealing with solicitors' accounts and practising restrictions. This review should include step-by-step written guidelines available to SRA employees, but also a review of how closely these are followed in practice'.
3. PK found that within cases relating to solicitors' accounts and practising restrictions, higher numbers of BME solicitors had their applications rejected than would normally be expected.
4. The full PK report, including recommendations, can be found [here](#).

Background

5. The table of PK recommendations links recommendation 13 to sections 6.5 and 6.6 of the report. Sections 6.5 and 6.6 (see page 37 of the report) deal with two linked research questions: 'Is there disproportionality in SRA outcomes?' and 'Is there disproportionality in the final outcome for BME solicitors?'. Having identified disproportionality in incoming complaints about BME solicitors, PK then considered whether the SRA compounds this by its decision-making in different areas. The analysis was based on cases closed within the three calendar years 2007 to 2009.
6. In this section of the report PK looked at the following three areas:
 - § initial assessments - recommendation 9;
 - § the outcomes of conduct cases (including those referred to the SRA by the LCS) - recommendation 10, and
 - § the outcomes of regulatory cases which were divided into 3 different types:
 - § PC renewals (recommendation 12);
 - § Solicitors accounts and practising restrictions (recommendation 13), and
 - § Breaches of regulations.

7. The category 'solicitors accounts and practising restrictions' has also been referred to as 'non section 12' cases. Section 12 cases are those referred to in the first category (practising certificate applications) and non section 12 cases are largely but not exclusively cases where firms have failed to provide an accountants report (which has to be filed each year by a set date) and require an extension of time or a waiver of the rules.
8. There are a number of other categories of application which could come under the definition of 'non section 12' cases but 84.7% of the total number relate to the requirement to submit an accountants' report.
9. [Rule 32 of the SRA Accounts Rules 2011](#) requires every firm of solicitors that holds client money to deliver an accountants' report to the SRA once a year, usually within six months of the end of the period to which the report relates. This duty extends to the directors of a company, or the members of an LLP, which is subject to this rule.
10. Whilst the majority of accountants' reports are delivered to the SRA by the due date, occasionally reports are received late, or not at all. In these circumstances, the SRA take appropriate action in dealing with the matter, dependent on the reasons for the late or outstanding report, previous regulatory history, and in the public interest.
11. There are also options available should the solicitor not be in a position to deliver their report on time but who contacts the SRA on or before the accountants' report due date. The most common option is for the solicitor to request an extension of time but this is only considered if the request is made on or before the due date and in writing¹. Another option is for the solicitor to request a waiver from the requirement to deliver the accountants' report, but this too will only be considered if the request is made in writing and submitted on or before the due date.
12. This audit reviewed a proportionate sample of decisions made against white and black and minority ethnicity (BME) individuals, relating to accountants' report extensions, waivers, late and outstanding reports, assessing whether written procedures were followed by staff.
13. Before commencing the physical review of cases relating to each accountants' report related work strand, copies of all relevant procedures and processes were requested from the responsible areas. Details of the information provided can be found at [Annex 3](#).

Audit scope

14. The scope of this audit has been limited to those cases where a solicitor has submitted an accountants' report after the due date (late), failed to submit the accountants' report (outstanding) or has made an application for a waiver

¹ This includes any form of written electronic communication normally used for business purposes, such as emails

from delivering the report or an extension of time in which to deliver the report for the following reasons:

§ to focus more clearly on one regulatory area and to audit compliance with the relevant decision-making criteria and the process used to make decisions in such cases, and

§ to pick up and consider further, a finding made in the audit conducted in response to recommendation 12, about practising certificates, ie to 'investigate the reasons why more BME than white solicitors appear to have Accountants' Report conditions imposed on their PCs'.

15. The majority of decisions within this category related to the requirement to file accountants reports in any event.
16. Inclusion, the commissioning unit for this audit, requested that unlike PK, the audit should concentrate on more recent cases closed in 2010 and 2011, the latest two years for which complete data was held. It was anticipated that by adopting this approach, any procedural developments since 2009 could be assessed and adherence to them reported.
17. The scope and remit of this audit is to review a representative sample of cases closed in 2010 and 2011, relating to solicitor's accounts (outstanding and late accountants' reports, waivers and extensions) and to report on how closely associated procedures were followed. To ensure that a representative sample of cases involving both white and black and minority ethnicity individuals were reviewed, percentage break-downs for each accountants' report category were calculated and proportionate samples chosen for review.

Population and sample size

18. To establish the population for this audit, the SRA Management Information team provided details of all regulatory cases relating to solicitors accounts, closed in 2010 and 2011. This contained details of 2428 individuals connected to 1620 distinct cases.
19. When an accountants' report related case is created, all of the principals at the firm of solicitors during the accounting period will be recorded against that case reference number. This explains the disparity between the number of cases and individuals concerned.
20. A total of 1620 distinct cases represented the population figure, of which 114 cases were selected for review. Recognised audit sampling guidelines indicate that reviewing this number of cases should provide a confidence level of 95 per cent, with an expected error rate of no more than three per cent. When selecting the appropriate sample size, care was taken to ensure a similar proportion of cases from each accountants' report category (to that of the population) were chosen. This is represented in Figures 1 and 2 below:

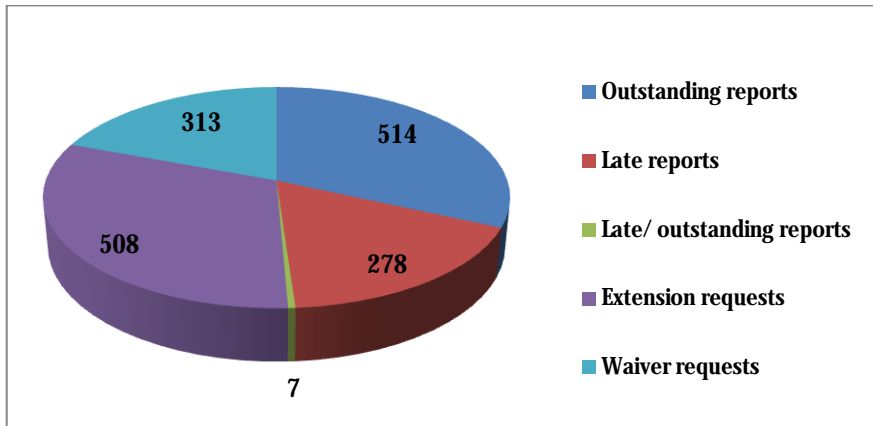


Figure 1. Population of accountants' report related cases closed in 2010 and 2011 by case type.

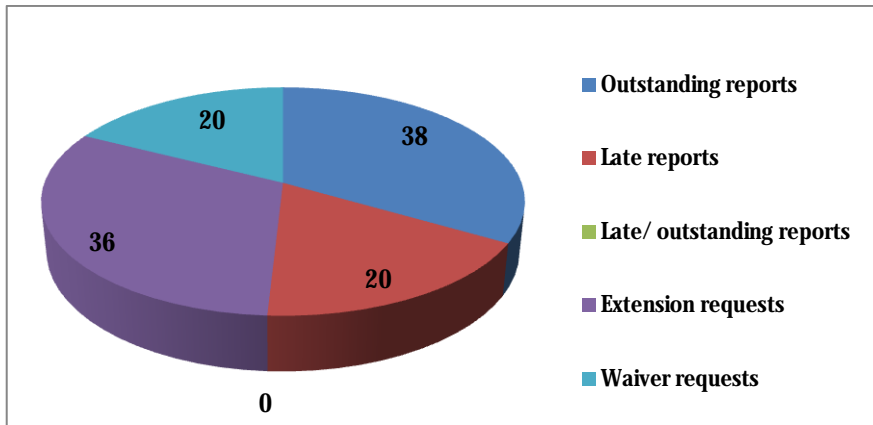


Figure 2. Sample of accountants' report related cases selected from the population for audit.

21. Due to the relatively insignificant number of cases recorded in the population as "Late/ outstanding reports", this hybrid category was removed for the purpose of sample selection.
22. The PK study specifically compared outcomes for individuals of white and black and minority ethnicity (BME), disregarding outcomes for individuals where ethnicity was unknown . To ensure consistency, those individuals whose ethnicity was unknown (16.2%) were removed for the purpose of this study. Further details pertaining to the case types and ethnicities of those involved can be seen in the table below:

Table 1: Accountants' report case type and ethnicity details of those associated with cases closed in 2010 and 2011.

Case type	White	BME	Unknown	Total
Outstanding reports	454 (73.6%)	163 (26.4%)	153	617
Late reports	296 (76.9%)	88 (22.9%)	59	385

Late/ outstanding reports	5 (71.4%)	2 (28.6%)	4	7
Extension requests	402 (61.1%)	245 (37.9%)	111	647
Waiver requests	288 (76.0%)	91 (24.0%)	69	379
Total	1446 (71.1%)	589 (28.9%)	393	2035

23. Had the audit looked at numbers of cases proportionate to the ethnicity breakdown (71.1% / 28.9%), this would have meant reviewing a total of 33 cases concerning BME individuals. Given that that this may not provide meaningful analysis, it was agreed that the audit would review an equal number of cases relating to individuals of white and black and minority ethnicity. Furthermore, the audit reviewed a proportionate sample of each case type and each prominent case outcome.

Key headlines

- § Step-by-step written guidelines were not available. Where written guidelines or procedures were provided, these concentrated on specific parts of wider processes, produced by separate units in isolation;
- § Procedures were not followed strictly in 62.7 per cent of cases reviewed (52/83);
- § Case outcomes were inaccurately recorded on the SRA database in 27.2 per cent of cases reviewed (31/114);
- § A significantly higher proportion of cases relating to outstanding and late accountants' reports which were upheld but resulted in no action, concerned white solicitors (see [Annex 1](#)).
- § The vast array of case outcome options (20), many of which appeared to be similar, had a detrimental impact on the extraction of meaningful data for analysis.

Key recommendations

- § Review and update all relevant procedures to ensure they remain fit for purpose;
- § Implement appropriate management controls to ensure procedures are complied with;

Outstanding accountants' reports

24. The due date for submission of the accountants' report has lapsed and the accountants' report remains outstanding.

The procedure

25. Outstanding accountants' reports are treated as urgent because the failure by a firm to deliver their accountants' report prevents the SRA from fulfilling its regulatory functions. Without an accountants' report it is not possible to check that client money has been held and handled correctly during the accounting period. All of the principals of the firm employed during the reporting period are liable for its delivery and are automatically subject to [Regulation 3 of the Solicitors Practising Regulations 2011](#) where a report is not delivered on time, which could result in the imposition of immediate practising certificate conditions. Regulation 3 also requires each solicitor to apply for their next practising certificate six weeks in advance of the normal renewal time, also incurring an additional fee payable to the SRA.
26. Where an accountants' report has been outstanding for one month (from the expected due date), the SRA will write to the firm asking for an explanation for the breach or the failure to deliver the report and will query when the report is likely to be delivered. The SRA Intelligence and Investigation unit is also notified in order for them to consider an on-site inspection.
27. On receipt of the response from the firm, a case note is prepared for adjudication and disclosed to the principals for comments. In the case note, the usual recommendation is that the principals provide the outstanding accountants' report to the SRA by a stipulated date and are informed that if they do not do so, their conduct will be referred to the Solicitors Disciplinary Tribunal.
28. Failure to file an accountants' report is treated as a breach of [Rule 34 of the Solicitors Act 1974](#) and a decision will be taken by an adjudicator as to the appropriate disciplinary outcome. In some circumstances this could also result in regulatory controls through the imposition of immediate practising certificate conditions.

Audit sample

29. A total of 38 cases were reviewed in relation to outstanding accountants' reports, which represents 33.3 per cent of the total sample and proportionate to the number of outstanding accountants' report cases found in the audit population. Further details can be found at [Annex 1](#).

Results

30. Of the 38 cases reviewed, 14 (36.8 per cent) were removed from the analysis as it was clear that these cases did not conclude. A common reason for this was where a separate case had been opened upon receipt of a waiver request by the firm for the same accounting period, which resulted in the "outstanding" case being closed and no further action taken. Elsewhere,

“outstanding” cases were closed where an existing investigation into the firm was already taking place in another part of the SRA. Under these circumstances, the outstanding accountants’ report would be passed to the investigating unit to consider as part of their ongoing investigation.

31. From the remaining 24 cases, only three (12.5 per cent) followed the correct procedure. In each case the subject firm had been intervened, so the procedure for dealing with these cases was condensed significantly. In one case the partners were struck off the roll of solicitors, so no further action was needed, and in the other two cases, waivers were granted from the requirement to deliver accountants’ reports as the solicitors accounts were vested in the Law Society and were therefore not accessible.
32. The procedure for dealing with outstanding accountants’ report matters is not straightforward and there are a number of factors which determine how the case is processed through to conclusion. The written guidelines, provided by the relevant units were found to be unclear, so interpretation was required. Based on the information provided, a number of questions were devised to test whether the procedure, had been followed. [Annex 2](#) contains details of these questions and the responses received. As referred to earlier, where any part of the procedure was found not to have been followed, the audit treated this as a failure to follow the correct procedure.
33. Due to the sample size, the audit was not able to establish any definitive findings in respect of inconsistencies between case outcomes for white and BME individuals. Overall, the split between white and BME individuals whose case was audited and found to be a proper “outstanding accountants” report case was (58.3% / 41.7%). The table below details the ethnicity breakdown for each case outcome.

Table 1: Case outcome and ethnicity dissection for outstanding accountants’ report case sample.

Case outcome	White	BME
Waiver granted	8 (57.1%)	4 (40.0%)
Waiver refused	1 (7.1%)	0 (0.0%)
No further action	2 (14.3%)	2 (20.0%)
Reprimand	2 (14.3%)	0 (0.0%)
Warning	0 (0.0%)	0 (0.0%)
No sanction	0 (0.0%)	1 (10.0%)
Letter of advice	1 (7.1%)	3 (30.0%)
Total	14	10

34. The table above depicts half of these cases resulted in the granting of a waiver from the requirement to deliver the outstanding accountants’ report, so the „matter reason” was not accurate when recorded as “Accountants’ Report (Outstanding)”, instead these records should have been recorded as “waiver requests”. This issue was prevalent across all accountants’ report work streams as it was common for a case to be opened under one categorisation, only to be closed under another.

35. For example, where an accountants' report was not delivered by a firm by the due date, a case would be opened against the firm for an „outstanding accountants' report“. However, on or before the due date the firm submit an application for a waiver. When the „outstanding“ case is opened against the firm on the IT system, checks are not made as to whether the firm has submitted a waiver request. This results in cases being opened and closed on the system as „outstanding accountants' report“ cases with the outcome code: „Complaint/ allegation not upheld“.

Conclusions

36. Without comprehensive guidelines or procedural notes, interpretation of the correct procedure for dealing with outstanding accountants' report cases was necessary. Despite not finding any distinguishable disparity between decisions made in relation to white and BME individuals, the lack of documented procedures for use by staff when dealing with these cases, fairness and consistency cannot be assured.
37. A large proportion of the audit sample (14 of 38 cases (36.8%)) were found to have been dealt with under separate cases, or created inadvertently. At least six cases were opened as „outstanding“ cases but requests for waivers from delivering the same accountants' reports had been logged under separate cases. A further „extension“ request case had also been received, which meant a further „outstanding“ case was opened and closed unnecessarily. This results in skewing the data analysis, meaning that without manually scrutinising each and every case recorded on the SRA database and correcting where appropriate, results and conclusions cannot be relied upon.

Recommendations

38. It is understood that all accountants' report procedures are currently subject to review and will be updated and documented by the SRA Business Change team. These procedures should consist of step-by-step instructions for dealing with such cases, including reference to relevant decision-making criteria published on the SRA website. These should also be subject to Equality Impact Assessments (EIAs) to ensure procedures are fair and non discriminatory.
39. It appears that „outstanding“ cases were being created without checking whether an extension or waiver request had been received from the firm. Stringent checks should be made when opening „outstanding“ cases, to ensure that cases are only opened against firms which fail to submit accountants' reports by the due date, and who have not submitted a request for an extension to the due date or waiver from the requirement to deliver.
40. The procedure states that the SRA Forensic Investigation unit (FI) is informed every time an outstanding accountants' report case is opened. This did not happen in 16 of 22 (72.7%) of cases reviewed, or at least it could not be ascertained that contact was made with FI. Close attention must be paid to ensuring the relevant units are informed of the accountants' report requirement status of firms, and appropriate action taken as necessary. In the interim period, before the SRA adopts the „single view“ IT system, the Risk Centre Assessment Team (RCAT) should inform the Forensic Investigation unit (now Investigation unit) of outstanding accountants' report assessments,

via the current process for the sharing and designation of information internally.

41. In one case it was found that the solicitor had been removed from the roll of solicitors whilst under obligation to deliver an accountants' report. Removing the solicitor from the roll effectively removes any regulatory authority the SRA has over the individual. Thus, in this instance, the SRA could not pursue the delivery of the accountants' report. Extreme caution should be taken when considering whether to remove an individual from the roll, if this is likely to have a detrimental effect on SRAs ability to regulate effectively.

Late accountants' reports

42. The accountants' report is delivered to the SRA after the due date.

The procedure

43. Similar to outstanding accountants' reports, as the report is received after the due date, all principals become subject to [Regulation 3 of the Solicitors Practising Regulations 2011](#).
44. If an accountants' report is received within one month of the due date and the associated principals have no adverse regulatory history, the SRA can use its discretion in deciding to take no further action. For those reports received over one month late, or where there is adverse regulatory history, the SRA will write to the principals, asking for an explanation for failing to deliver the report on time.
45. On receipt of the explanation, a case note is prepared, containing recommendations to the adjudicator as to the appropriate outcome of the matter. This will be disclosed to the principals for comment before a decision is reached and any representations they wish to make will then accompany the case note, forwarded to an adjudicator for a decision.
46. There are no guidelines on the level of sanction for the late delivery of accountants' reports as it will depend on the firms explanation for the lateness, the principals' history and how late it was.

Audit sample

47. A total of 20 cases were reviewed in relation to late accountants' reports, which is 17.5 per cent of the total sample and proportionate to the number of late accountants' report cases found in the audit population. Further details can be found at [Annex 1](#).

Results

48. Of the 20 cases reviewed, 11 (55 per cent) were removed from the analysis as these were not concluded as late accountants' report cases. In four cases a request for an extension to the due date had been made and was granted, nullifying the "late" accountants' report cases opened. In three instances the decision-maker concluded that no breach had occurred and closed the case.

Elsewhere, two cases were closed because the decision-maker felt it was not in the public interest to pursue the matter, one case was closed because a waiver had been granted from the obligation to deliver the accountants' report, and the final case was dealt with as part of an existing forensic investigation.

49. Similar to the "outstanding" accountants' report procedures, the protocol for dealing with "late" accountants' reports required the interpretation of guidance notes from a number of sources. Based on the available information, a number of questions were devised to test whether the procedure had been followed. [Annex 2](#) contains details of these questions and the established responses.
50. Where evidence was found that the procedure had not been adhered to, the audit regarded this as a procedural failure. Of the remaining nine cases which were progressed to conclusion as "late" accountants' report cases, each appeared to bypass or exclude some part of the process.
51. Whilst it is likely that a risk assessment of the issue did take place, we found no evidence of this occurring on three cases reviewed.
52. Where an explanation was requested as to the reason for the late delivery, on all occasions where the accountants' report remained outstanding at that time, the caseworker failed to ask the solicitor when the report was likely to be submitted. In one case the relevant regulations were not referred to and in another case the vesting² paragraph was not included.
53. In eight of nine cases the final decision was made by an Adjudicator and in the final case, the decision was taken by a caseworker, who took no further action.

Table 2: Case outcome and ethnicity dissection for late accountants' report case sample.

Case outcome	White	BME
Warning	0 (0.0%)	4 (66.7%)
No further action	2 (66.7%)	1 (16.7%)
Reprimand	0 (0.0%)	1 (16.7%)
Waiver	1 (33.3%)	0
Total	3	6

Conclusions

54. Late accountants' report cases are dealt with in two departments, depending upon whether certain criteria are met. Each department provided what they considered to be the relevant procedure for dealing with late accountants' reports, although these could not be considered comprehensive step-by-step

² A paragraph reminding the recipient that their failure to provide a satisfactory explanation may result in the SRA giving formal notice in accordance with regulation 3.1(b) of the [SRA Practising Regulations 2009](#).

guidelines. The information was not readily available or accessible to staff outside the unit and also required interpretation.

55. From the sample of 20 cases reviewed, over half of these were not accurately recorded on the SRA database as “late accountants” report” cases. It appears that the procedure for cross-checking whether an extension or waiver request had been received before creating a “late” case is not being followed or is fundamentally flawed. This creates additional work in opening and closing cases erroneously and has a detrimental effect on the validity of data used for analysis. This data was relied upon by Pearn Kandola when they conducted their research into disproportionality, so their observations and recommendations may not be accurate.
56. It is anticipated that in future accountants” reports will be submitted to the SRA electronically via “mySRA”, along with associated extension and waiver requests. This will mean that the information held by SRA will be completely up-to-date; the IT system will only flag a firm as not having delivered their accountants” report on time when the report is not received by the due date and no extension or waiver request has been made. This should help to improve data integrity.
57. The procedures for cross-checking whether an extension or waiver request had been received prior to creating the „late” case were not provided prior to commencement of the audit, so compliance was not tested.

Recommendations

58. The procedures for dealing with late accountants” report cases must be reviewed, updated, documented and made readily available to SRA staff. Where more than one area is involved in the process, cohesive procedures should be drafted, specifying the criteria applicable to each function.
59. In particular, the procedure for cross-checking whether an extension or waiver request has been received before the „late” case is created must be reviewed as a priority. Provided the procedure remains fit for purpose, stringent controls should be put into place to ensure the procedure is followed.
60. In one instance, the caseworker concluded a case by issuing a „letter of advice”, referring to submitting the accountants” report four months after the due date as a “short” breach. The procedures do not articulate what constitutes as a “short” breach, so a more definitive indication would be beneficial to ensure a consistent approach to dealing with such breaches.

Extension requests

61. A written request to extend the due date for the accountants” report to be delivered to the SRA.

The procedure

62. If the request is for an extension of a period of three months or less from the original due date, an extension is likely to be granted provided;

§ the request is made in writing, received by the SRA on or before the due date;

§ there are no outstanding accountants' reports due from the firm, and

§ there are no other pending regulatory or conduct related issues under investigation.

63. These would usually be dealt with by the Caseworking and Applications Unit (CAU), unless specific criteria are fulfilled, requiring a referral to the Regulatory Investigations Unit (RIU).

64. Extension requests which exceed three months from the original due date will automatically be referred to an adjudicator for a decision by caseworkers in RIU. Within the memorandum or case note, the caseworker must include the following information:

§ Details of the extension request and the accountants' report to which it relates

§ Practising Certificate status of the principals

§ Indemnity Insurance details

§ Recent accountants' report history

§ Previous complaints and history

§ Matters outstanding

65. Where the caseworker recommends the extension is refused, the case note must be disclosed to the solicitor for comment.

66. If the request is accepted, the due date for the accountants' report will be amended and the solicitor obliged to deliver the report on or before the revised due date. Should the request be refused, the accountants' report will be considered either late if submitted subsequently, or outstanding if not delivered at all. The consequence of failing to deliver an accountants' report on time is that all principals become subject to [Regulation 3.1 of the SRA Practising Regulations 2011](#).

67. Once a decision is reached, the solicitor is notified and their record updated.

Audit sample

68. A total of 36 cases were reviewed in relation to accountants' report extension requests, which is 31.6 per cent of the total sample and proportionate to the number of accountants' report extension request cases found in the audit population. Further details can be found at [Annex 1](#).

Results

69. As with the other categories of accountants' report procedures, the protocol for dealing with accountants' report extension requests required interpretation of guidance notes gathered from a number of sources. From this a number of questions were devised to test whether the procedure had been followed. [Annex 2](#) contains details of these questions and the related responses.
70. From the sample of 36 cases, two cases were incorrectly recorded as accountants' report extension requests and were removed from the analysis. One of these cases was a waiver request in which it transpired that an accountants' report was not required, and the other case was created erroneously.
71. A further two cases were also removed from the sample, despite being genuine extension request matters as the usual procedure assessed against was not applicable. In one case an extension request was made but the report was submitted by the original due date, and in the second case the firm was intervened into by the SRA shortly after the request was made. Neither case required any considerable work and both were closed shortly after creation.
72. With the revised sample reduced to 32 cases, where any part of the procedure was not adhered to, the audit regarded this as a failure to follow the correct procedure. Of these, the procedure was not followed in a total of 13 cases (40.6%).
73. In seven cases the request was not made on time i.e. on or before the report due date, yet was still considered and a decision made. In two cases the criteria for referring the request from CAU to RIU was not met and in a further three cases, despite the criteria being met and the request being for an extension of three months or less, the RIU caseworker referred the case to an adjudicator for a decision. In a single case there was no evidence to suggest that CAU had been notified of the decision of the adjudicator.
74. A brief summary of the case outcomes can be seen in the table below.

Table 3: Case outcome and ethnicity dissection for accountants' report extension request case sample.

Case outcome	White	BME
Extension granted	10 (58.8%)	10 (66.7%)
Extension refused	6 (35.3%)	5 (33.3%)
No further action	1 (5.9%)	0
Total	17	15

75. The average extension period requested was 96 days from the date of the latest approved due date, although 23 of the 32 cases (71.9%) were requests for extensions of 92 days or less. The shortest extension request was for 12 days and the longest for 396 days.

Conclusions

76. Extension requests are dealt with by different departments, depending on whether certain criteria are fulfilled. Whilst procedures existed, some parts were open to interpretation, so consistency in application is a concern. The procedure states that staff in CAU can deal with extension requests “up to a period of three months where certain criteria are fulfilled”. When calculating the average extension request period across the sample audited, there was uncertainty as to what “up to three months” translated to. If interpreted as three calendar months, this means that staff in CAU can grant extensions of differing periods (calendar days) depending on the time of year.
77. It was established that staff in CAU could only grant extensions for a period of up to three months from the original accountants’ report due date, not from the most recent authorised due date. This was not clear from the procedure, so a number of referrals from CAU to RIU for short extension requests (less than three months from the last authorised due date) were initially questioned.
78. Where referrals are made by CAU to RIU for either extension requests for periods over three months or where the criteria has been satisfied for referring the case, the referral form often did not specify the reasons for the referral. Where the extension request period is the determining factor, this will be obvious to the RIU caseworker, but where certain criteria has been satisfied to warrant the referral, it was unclear which criteria had been satisfied.
79. Despite the procedure stating that all extension requests must be made in writing and received on or before the due date, one request was not made in writing and in six cases the request was made after the due date. Of the requests received out of time, five were refused and in the final case, the adjudicator gave the solicitor 28 days to submit the report or be referred to the Solicitors Disciplinary Tribunal (SDT). As the procedure stipulates that requests for extension requests must be made in writing on or before the due date, it is unclear why these cases were progressed, incurring additional resource to reach what could be perceived as an inevitable outcome.
80. In three cases, the reason for the referral from the RIU caseworker to adjudication was questioned. Each request was for a period not exceeding three months from the date of the last authorised extension request, and the caseworker was recommending the request be granted. Unless the RIU caseworker can only grant extensions up to three months from the original accountants’ report due date, it is not known why the RIU caseworker did not grant the extension request.
81. Half of all extension request cases reviewed related to firms which had previously been granted an extension of time in which to deliver the same accountants’ report.

Recommendations

82. It is recommended that the procedures be reviewed and updated accordingly. Where there is scope for different interpretation, this must be clarified to ensure consistent application by staff. For example, instead of stating that staff can deal with requests “up to three months”, clarity would be assured by stating “up to 90 calendar days”. The SRA Business Change team, a team charged with mapping and documenting procedures and ways of working, is currently reviewing all accountants’ report related procedures. It is

recommended that the findings and observations from this report be made available for their consideration.

83. Further clarification is also required as to whether staff can grant extensions from the original accountants' report due date, or from the last authorised due date. This issue applied to both departments dealing with these requests.
84. Referral memo's from CAU to RIU should clearly specify the reason why the case is being referred for a decision. This will enable the recipient to promptly ascertain the referral reason and take the appropriate action.
85. A streamlined process for dealing with extension requests received after the due date, or not in writing should be pursued. Where this occurs, the report should be considered outstanding and progressed under the respective procedure.
86. The relevant solicitors' accounts rules make no reference to the granting of extensions of time in which to deliver accountants' reports. Clarification should be sought as to where this practice initiated, and if necessary, the relevant provisions written in to the rules.

Waiver requests

87. A written request to waive the requirement to deliver the accountants' report for that particular period.

The procedure

88. If a solicitors practice is unable to deliver the accountants' report by the due date, they may request a waiver from the requirement to deliver the report, or they will be in breach of Rule 32(1) of the Solicitors Accounts Rules 2011 if the report is not delivered on time.
89. The granting of a waiver request may be approved in limited circumstances:
 - § The solicitor can demonstrate (through bank statements) that there has been little or no movement on the client account;
 - § Where the SRA has intervened into the practice and the solicitor no longer has access to their books of account or client account;
 - § The practice has closed and the solicitor has paid the remnants of any client money to the Solicitors Benevolent Fund (or another charity) on closure of the account (after the granting of Solicitors' Accounts Rules waiver under Rule 22(1)(h), and
 - § Other circumstances dependant on the facts.
90. In the first instance, Waiver requests are usually received in the Caseworking and Applications Unit (CAU), which is authorised to grant requests provided a number of criteria are satisfied. These are set out in the published decision-

making criteria titled "[Accountants' report, decision to grant dispensation to deliver](#)". Where the criteria are not satisfied, a referral will be made to the Regulatory Investigations Unit (RIU) to progress the case.

91. Waiver requests are dealt with by RIU caseworkers, who are authorised to grant but not refuse such requests. When determining an application for a waiver, the following criteria are relevant but are not exhaustive:
- § Any risk to the public in not having the report delivered;
 - § Any previous disciplinary record and history relating to the delivery of accountants' reports;
 - § Any outstanding complaints against the firm;
 - § Any hardship caused to the firm by requiring delivery of a report;
 - § Any correspondence or evidence sent in support of the application, in particular copies of bank statements for the relevant period, and
 - § The amount of money held and the number of transactions conducted during the relevant period.
92. Where the caseworker is recommending the application be refused, a case note is drafted and disclosed to the solicitor for comment. Any representations made by the solicitor will accompany the case note and will be referred to an adjudicator for a decision. This case note will include the following information:
- § Details of the waiver request and the accountants' report to which it relates;
 - § Practising Certificate status of principals;
 - § Indemnity Insurance details;
 - § Recent accountants' report history;
 - § Previous complaints and history, and
 - § History of matters outstanding
93. Once a decision is reached, the solicitor is notified and their records are updated.

Audit sample

94. A total of 20 cases were reviewed in relation to accountants' report waiver applications, which represents 17.5 per cent of the total sample and proportionate to the number of accountants' report waiver request cases found in the audit population. Further details can be found at [Annex 1](#).

Results

95. From the initial sample of 20 waiver request cases, two entries were removed as they were not applicable. One case concerned a request for a waiver from providing two comparison dates on the accountants' report and the other case involved a firm of solicitors delivering a revised accountants' report for the correct period after having submitted a partially completed report.
96. From the revised sample of 18 cases, sixteen (88.8%) were generated within the Caseworking and Applications Unit (CAU) and two in the Regulatory Investigations Unit (RIU). All cases generated in CAU were then referred to RIU for conclusion.
97. Of the cases generated in CAU, the reason for the referral to RIU to progress could only be established in two instances, both of which were due to the accountants' report being the final report from the firm. Invariably the reason captured on the referral form would state "waiver request", which suggests the referrer in CAU may have been unaware that they may have been able to deal with the case locally.
98. Half of the waiver request cases reviewed concerned accountants' reports which remained outstanding. Where a report is outstanding, the procedure mentions that the caseworker dealing with the case might want to suggest to the firm of solicitors, in certain circumstances, that they may wish to apply for a waiver. This was only evident in a single case of the nine relating to outstanding accountants' reports. The circumstances in which a waiver may be suggested are unclear.
99. Twelve waiver requests were received in writing on or before the due date but the remaining six cases were made in writing but past the due date. Despite the procedure stating that waiver applications must be made before the due date, these six cases were still considered. Five requests were granted and one refused.
100. Before a decision can be made in respect of a waiver application, the person dealing with the case would often request additional information from the solicitors. Invariably copies of client account bank statements for the accounting period in question were requested, although no further information was sought in five instances (27.8%).
101. In two cases (11.1%) it was not evident that the convenience to the solicitor of granting the waiver had been considered, and in one case (5.6%) it was not evident that public interest had been considered.
102. The decision-maker was a caseworker on seven occasions and an adjudicator in the remaining 11 cases. Where the case was prepared for adjudication, the caseworker recommended the application be granted in four instances and refused in the remaining seven. Documented procedures state that caseworkers in RIU have delegated powers to grant waivers, thus it is unclear why four applications would be referred to adjudication when the recommendation made was to grant. Where the caseworker was recommending the application be refused, the case note was disclosed to the subject solicitors on all seven occasions.

103. These cases were dealt with by way of a case note on 12 applications and memo in the remaining six. In all but three instances, the correspondence contained the required information set out in paragraph 61 above.
104. In total, nine waiver applications were granted and nine were refused. The ethnicity break-down of those individuals to which the applications related can be seen in the table below.

Table 4. Case outcome and ethnicity dissection for accountants' report waiver request case sample.

Case outcome	White	BME
Waiver granted	4 (44.4%)	5 (55.6%)
Waiver refused	5 (55.6%)	4 (44.4%)
Total	9	9

105. In all cases the subject solicitor was informed of the decision and CAU were made aware for the purpose of updating the database record.
106. In summary, the audit established that of the 18 cases reviewed, the procedure for dealing with such cases was not followed in nine instances. In six cases the request for a waiver was received outside of the due date and in four cases the caseworker referred the matter to an adjudicator, despite recommending the application be granted. One case failed in respect of both issues.

Conclusions

107. Without comprehensive guidance notes, interpretation of the literature provided was necessary. The criteria for dealing with waiver requests in CAU is prescriptive, although where cases were referred to RIU for action, invariably the referral reason was not captured on the referral form. Similarly, where RIU had the authority to make a decision i.e. to grant a waiver request, in four cases a referral was made to an adjudicator to make the decision for reasons unknown. The two procedures conflict as one suggests that RIU caseworkers can grant waivers, whereas the other suggests they need to be dealt with via a memo to an adjudicator for a decision.
108. Despite the procedure stating that all extension requests must be made in writing and on or before the due date, six requests were received after the due date. Five of these concluded with the waiver request being granted, but one case, which was referred to an Adjudicator, was refused on the basis that it was out of time. Whilst there are no costs implications for the subject solicitors, there are resource implications on SRA for referring cases to adjudicators unnecessarily.
109. [Rule 46 of the SRA Accounts Rules 2011](#), which concerns accountants' report waivers, does not stipulate that requests must be made in writing or on or before the accountants' report due date, which would be a useful addition to the guidance notes.

110. It was evident that solicitors' practices were requesting extensions of time in which to deliver their accountants' report in the event that their application for a waiver was rejected. Whilst this provides firms with "two bites of the cherry", this can result in cases being opened and closed unnecessarily, affecting the reliability of information held on the SRA database, which is used for data and trend analysis.
111. When a waiver is granted, the IT database is updated by removing the "old" accounting period from the system. This means that the waiver request information is recorded against the following accounting period and not the period to which it relates, which can cause confusion.
112. The information required by staff in CAU to make a decision in respect of waiver applications is clearly set out in their procedure notes. However, the same cannot be said for staff dealing with such applications in RIU. It would appear that the requirement is for client account bank statements for the period in question and clarification as to the nature of transactions on the bank statements. The relevant decision-making criteria should be updated to include this information.
113. There are currently two separate sets of decision-making criteria published on the SRA website; one relates to the granting of waivers in RIU and the dispensations in CAU. Clarification on the difference between waivers and dispensations is required, or preferably incorporated into a single procedure for dealing with waiver requests.
114. In one case there were discrepancies in the procedure regarding non-disclosed cases where the adjudicator did not agree with the caseworkers recommendation. This may have subsequently been clarified but the procedure notes contain no guidance on dealing with these cases.
115. It is understood that in future accountants' reports will be completed on-line utilising the "mySRA" functionality. As a result, all existing accountants' report processes are being reviewed by the SRA Business Change team, who will update, document and version control the procedures.

Recommendations

116. A single set of revised decision-making criteria should be produced, which set out the parameters for dealing with all applications for waivers. These should include details of the information required by SRA in order to reach a decision, for example copies of client account bank statements. Reference to "dispensations" should also be removed as this creates unnecessary confusion.
117. All decision-making criteria should be subject to an equality impact assessment to ensure our activities are fair and non-discriminatory.
118. It is imperative that cases are recorded accurately on the IT database. From the relatively small sample of 20 cases, ten per cent were found to have been inappropriately recorded on the system. With such a high error rate, reliance on data for trend analysis cannot be assured. Also, the numerous outcome codes available on the IT database, some of which are similar, complicates the extraction of meaningful data for trend analysis. Consideration should be

given to rationalising the number of “outcomes” (decisions) available to staff to select regarding waiver applications.

119. It may be beneficial to introduce a single procedure for dealing with cases where the subject firm requests an extension of time to deliver their accountants’ report if a waiver is not granted. Previously this situation may have resulted in two separate cases being opened and considered in isolation.
120. Where cases are referred elsewhere for decisions, specific reasons for the referral should be captured on an appropriate referral form. In a number of cases it was not clear why the referral had taken place. Escalating cases to more senior decision-makers without valid reason incurs additional organisational costs and can increase the length of investigation.
121. Adherence should be paid to the deadline for requesting waivers to ensure consistency and fairness in approach.

Annex 1

This section contains details of the case outcomes recorded against individuals in the population figure of 1411 distinct cases. When selecting the audit sample, whilst the individual cases were chosen at random, attention was paid to ensuring each case type and each case outcome were proportionately represented.

In total, across all four work streams, 20 separate „case outcomes“ were recorded and whilst the audit primarily concentrated on those outcomes which were most common, a random selection of cases with lesser common outcomes were also reviewed.

The following tables provide details of the case outcomes for white and BME individuals in each work stream. Where an outcome significantly differs (+/- 5%) between white and BME individuals, these are represented in red.

Outstanding accountants' reports

Case outcome	Population			Sample		
	White	BME	Total	White	BME	Total
Application (non REG 3) – granted	97 (21.4%)	34 (20.9%)	131 (21.2%)	6 (31.6%)	4 (21.1%)	10
Complaint/Allegation upheld but no action	88 (19.4%)	13 (8.0%)	101 (16.4%)	1 (5.3%)	3 (15.8%)	4
Complaint/Allegation upheld	60 (13.2%)	29 (17.8%)	89 (14.4%)	2 (10.5%)	1 (5.3%)	3
Complaint/Allegation not upheld	69 (15.2%)	21 (12.9%)	90 (14.6%)	4 (21.1%)	2 (10.5%)	6
Complaint/Allegation noted – Ongoing other action	56 (12.3%)	20 (12.3%)	76 (12.3%)	2 (10.5%)	5 (26.3%)	7
Complaint/Allegation Referred to SDT	33 (7.3%)	12 (7.4%)	45 (7.3%)	1 (5.3%)	0	1
Matter to Lie on File	16 (3.5%)	6 (3.7%)	22 (3.6%)	0	1 (5.3%)	1

Application (non S12) – granted	12 (2.6%)	7 (4.3%)	19 (3.1%)	1 (5.3%)	0	1
Application – withdrawn	4 (0.9%)	3 (1.8%)	7 (1.1%)	0	0	0
Within jurisdiction but investigation declined	5 (1.1%)	1 (0.6%)	6 (1.0%)	1 (5.3%)	1 (5.3%)	2
Compliant/Allegation added – in to existing DPs	3 (0.7%)	14 (8.6%)	17 (2.8%)	0	1 (5.3%)	1
Resolution Team – CW1	5 (1.1%)	0	5 (0.8%)	1	0	1
Application (non REG 3) – rejected	1 (0.2%)	1 (0.6%)	2 (0.3%)	0	0	0
Complaint/Allegation outside our jurisdiction	2 (0.4%)	2 (1.2%)	4 (0.6%)	0	1 (5.3%)	1
Incapacity of customer/solicitor	1 (0.2%)	0	1 (0.2%)	0	0	0
Regulatory Settlement Agreement	1 (0.2%)	0	1 (0.2%)	0	0	0
Resolution Team – Letter of Advice	1 (0.2%)	0	1 (0.2%)	0	0	0
Total	454 (73.6%)	163 (26.4%)	617	19	19	38

Late accountants' reports

Case outcome	Population			Sample		
	White	BME	Total	White	BME	Total
Complaint/Allegation upheld but no action	150 (50.7%)	34 (38.2%)	184 (47.8%)	0	0	0
Resolution Team – Letter of Advice	43 (14.5%)	14 (15.7%)	57 (14.8%)	0	0	0
Resolution Team – CW1	34 (11.5%)	6 (6.7%)	40 (10.4%)	0	0	0

Complaint/Allegation not upheld	22 (7.4%)	6 (6.7%)	28 (7.3%)	8 (80.0%)	3 (30.0%)	11
Complaint/Allegation upheld	26 (8.8%)	14 (15.7%)	40 (10.4%)	0	5 (50.0%)	5
Complaint/Allegation noted – Ongoing other action	11 (3.7%)	5 (5.6%)	16 (4.2%)	0	1 (10.0%)	1
Application (non REG 3) – granted	3 (1.0%)	2 (2.2%)	5 (1.3%)	1 (10.0%)	0	1
Complaint/Allegation Referred to SDT	3 (1.0%)	4 (4.5%)	7 (1.8%)	0	0	0
Within jurisdiction but investigation declined	2 (0.7%)	0	2 (0.5%)	0	0	0
Application (non S12) – granted	1 (0.3%)	1 (1.1%)	2 (0.5%)	1 (10.0%)	1 (10.0%)	2
Compliant/Allegation added – in to existing DPs	1 (0.3%)	0	1 (0.3%)	0	0	0
Complaint/Allegation outside our jurisdiction	0	1 (1.1%)	1 (0.3%)	0	0	0
No Engagement at Present	0	2 (2.2%)	2 (0.5%)	0	0	0
Total	296	89	385	10	10	20

Extension requests

Case outcome	Population			Sample		
	White	BME	Total	White	BME	Total
Application (non REG 3) – granted	218 (54.2%)	129 (52.7%)	347 (53.6%)	6 (30.0%)	7 (43.8%)	13
Application (non S12) – granted	139 (34.6%)	80 (32.7%)	219 (33.8%)	2 (10.0%)	1 (6.3%)	3
Application – withdrawn	22 (5.5%)	22 (9.0%)	44 (6.8%)	3 (15.0%)	0	3

Application (non REG 3) – rejected	9 (2.2%)	5 (2.0%)	14 (2.2%)	3 (15.0%)	5 (31.3%)	8
Application (non S12) – rejected	7 (1.7%)	0	7 (1.1%)	5 (25.0%)	0	5
Complaint/Allegation not upheld	1 (0.2%)	0	1 (0.2%)	0	0	0
Complaint/Allegation noted – Ongoing other action	1 (0.2%)	4 (1.6%)	5 (0.8%)	0	0	0
Complaint/Allegation upheld	3 (0.7%)	1 (0.4%)	4 (0.6%)	1 (5.0%)	1 (6.3%)	2
Application-REL (reg 3 new) – revoke registration	0	2 (0.8%)	2 (0.3%)	0	1 (6.3%)	1
Compliant/Allegation added – in to existing DPs	0	1 (0.4%)	1 (0.2%)	0	0	0
Complaint/ Allegation referred to SDT	0	1 (0.4%)	1 (0.2%)	0	1 (6.3%)	1
Complaint/ Allegation upheld but no action	2 (0.5%)	0	2 (0.3%)	0	0	0
Total	402 (62.1%)	245 (37.9%)	647	20	16	36

Waiver requests

Case outcome	Population			Sample		
	White	BME	Total	White	BME	Total
Application (non REG 3) – granted	187 (64.9%)	56 (61.5%)	243 (64.1%)	0	4 (40.0%)	4 (20.0%)
Application – withdrawn	33 (11.5%)	14 (15.4%)	47 (12.4%)	1 (10.0%)	1 (10.0%)	2 (10.0%)
Application (non S12) – granted	30 (10.4%)	6 (6.6%)	36 (9.5%)	4 (40.0%)	0	4 (20.0%)
Application (non REG 3) – rejected	12 (4.2%)	5 (5.5%)	17 (4.5%)	4 (40.0%)	2 (20.0%)	6 (30.0%)
Complaint/Allegation noted – Ongoing other action	10 (3.5%)	1 (1.1%)	11 (2.9%)	0	0	0
Application (non S12) – rejected	5 (1.7%)	3 (3.3%)	8 (2.1%)	0	2 (20.0%)	2 (10.0%)
Complaint/Allegation upheld but no action	2 (0.7%)	1 (1.1%)	3 (0.8%)	0	0	0
Complaint/Allegation not upheld	1 (0.3%)	1 (1.1%)	2 (0.5%)	0	0	0
Complaint/Allegation upheld	7 (2.4%)	4 (4.4%)	11 (2.9%)	1 (10.0%)	1 (10.0%)	2 (10.0%)
Compliant/Allegation added – in to existing DPs	1 (0.3%)	0	1 (0.3%)	0	0	0
Total	288 (76.0%)	91 (24.0%)	379	10	10	20

Late/ outstanding accountants' reports

Case outcome	Population			Sample		
	White	BME	Total	White	BME	Total
Complaint/Allegation upheld but no action	3 (50.0%)	2 (100.0%)	5	A sample was not taken from this category due to the diminutive population size.		
Application (non REG 3) – granted	1 (25.0%)	0 (0.0%)	1			
Complaint/Allegation not upheld	1 (25.0%)	0 (0.0%)	1			
Total	5 (71.4%)	2 (28.6%)	7			

Annex 2

Upon requesting step-by-step procedures for each work strand, the information received did not constitute comprehensive guidance, so interpretation of the correct procedure was necessary. The responsible units were consulted and agreement reached that the procedures, as understood, had been interpreted correctly.

This section provides details of the questions asked during the audit process to determine whether the relevant procedures had been followed for each work strand. Where the response to a question was answered „yes“ in less than one hundred per cent of instances, it was perceived that the process had not been followed in accordance with the procedure.

Outstanding accountants' reports

Caseworking and Applications Unit (CAU)

- | | |
|--|--|
| 1. Appropriate „flag“ added to all responsible solicitors records? | Yes: 91.7% (22/24) |
| 2. Copy of all relevant correspondence attached to the file? | Yes: 91.7% (22/24) ³ |
| 3. Regis (IT database) updated with relevant comments? | Yes: 95.5% (21/22) |
| 4. Forensic Investigations Unit (FIU) notified of outstanding Accountants“ report? | Yes: 27.3% (6/22) |

Risk Assessment & Designation Centre (RADDC)

- | | |
|---|--------------------------|
| 5. Issue correctly identified and risk assessed? | Yes: 100% (24/24) |
| 6. Appropriate primary designation ⁴ selected? | Yes: 100% (24/24) |

Regulatory Investigations Unit (RIU)

- | | |
|--|-------------------------|
| 7. Correspondence requesting an explanation and delivering a warning (EWW) sent to solicitors? | Yes: 50% (12/24) |
|--|-------------------------|

³ Two cases were generated in RADDC, bypassing CAU.

⁴ Failure to file accountants“ reports: Regulatory Investigations (RI).

- 8.** If „yes“, did the EWW:
- Ask for an explanation for the breach or the failure to deliver Yes: **91.7%** (11/12)
 - If the report is outstanding then ask when it is likely to be delivered Yes: **0%** (0/12)
 - Quote the relevant law Yes: **91.7%** (11/12)
 - Include the vesting paragraphs Yes: **91.7%** (11/12)
 - Include the Costs paragraphs Yes: **91.7%** (11/12)
- 9.** Did the EWW refer to the correct type of Report (Cease to hold (CTH), half-yearly, quarterly)? Yes **91.7%** (11/12)
- 10.** If the report was cease to hold (CTH), did the EWW cover the following points: Yes (to all): **20%** (1/5)
- Ask if the solicitors“ still hold clients“ money;
 - If so, ask how much the solicitors“ continue to hold and when they envisage ceasing to hold clients“ money in the near future (reminding them that if they continue holding clients“ money they will continue to be responsible for filing Accountants“ Reports irrespective of whether they are practising or not);
 - If not, request the date that the solicitors“ ceased to hold clients“ money, and
 - Refer to [Rule 36\(5\) of the Solicitors“ Accounts Rules 1998](#).
- 11.** Who made the decision:
- Caseworker **58.3%**(14/24)
 - Authorised Officer **8.3%** (2/24)
 - Adjudicator **33.3%** (8/24)

- 12.** If the caseworker dealt with the matter by way of letter of advice (LOA), was the following satisfied: Yes (to all): **100%** (4/4)
- The breach was short;
 - There was no adverse regulatory history against the solicitors, and
 - There were no outstanding matters open against the solicitors
- 13.** If the caseworker prepared a report to Adjudication, was the paragraph included requiring the solicitor to deliver the Accountants' Report and if he does not do so, we will refer his conduct to the Tribunal? Yes: **44.4%** (4/9)⁵
- 14.** Was the Caseworking and Applications Unit (CAU) notified of the decision? Yes: **58.3%** (14/24)
- 15.** Was the file kept open for the period permitted by the Adjudicator to deliver the report? Yes: **100%** (4/4)
- 16.** If not delivered, was the matter referred to the Legal department to commence disciplinary proceedings? Yes: **100%** (1/1)
-
- 17.** Does the reviewer consider the process to have been followed? Yes: **12.5%** (3/24)

Late accountants' reports

Caseworking and Applications Unit (CAU)

- 1.** Appropriate „flag“ added to all responsible solicitors records? Yes: **100%** (9/9)
- 2.** Was the matter referred to RADDC for risk assessment? Yes: **62.5%** (5/8)⁶
- 3.** If „yes“, was the appropriate referral form used? Yes: **100%** (8/8)

Risk Assessment & Designation Centre (RADDC)

⁵ In the remaining five instances, the caseworker recommended granting a waiver from the requirement to deliver the accountants' report

⁶ One case was initiated in the Risk Assessment & Designation Centre (RADDC)

- 4. Was the issue correctly identified and risk assessed? Yes: **66.7%** (6/9)
- 5. Was the appropriate primary designation⁷ selected? Yes: **66.7%** (6/9)

Regulatory Investigations Unit (RIU)

- 6. Correspondence requesting an explanation and delivering a warning (EWW) sent to solicitors? Yes: **100%** (8/8)
- 7. If „yes“, did the EWW:
 - o Ask for an explanation for the breach or the failure to deliver; Yes: **100%** (8/8)
 - o If the report is outstanding then ask when it is likely to be delivered; Yes: **0%** (0/8)
 - o Quote the relevant law; Yes: **87.5%** (7/8)
 - o Include the vesting paragraphs, and Yes: **87.5%** (7/8)
 - o Include the Costs paragraphs. Yes: **100%** (8/8)
- 8. Who made the decision:
 - o Caseworker **11.1%** (1/9)
 - o Adjudicator **88.9%** (8/9)

- 9. Does the reviewer consider the process to have been followed? Yes: **0%** (0/9)

Extension requests

Caseworking and Applications Unit (CAU)

- 1. Was the request made in writing? Yes: **96.9%** (31/32)

⁷ Late delivery of Accountants' Report: Resolution Team or RIU – see criteria.

2. Was the request made in time (on or before the due date)? Yes: **78.1%** (25/32)
3. Was at least one of the following criteria met, requiring the matter to be referred to RIU? Yes (to all): **92.6%** (25/27)⁸
- a. The request is for a period of 3 months or under;
 - b. The firm have not been granted extensions in both the previous two accounting report periods;
 - c. The firm have received an extension in the last two years and there have been no open/closed matters since;
 - d. None of the solicitors responsible for the accountants report are subject to Regulation 3.1;
 - e. None of the solicitors responsible have Professional Indemnity Insurance Default (PIID) or Individual in Default of Indemnity Rules (PERSDFLT) „flags“ on their records;
 - f. None of the following matters remain open on the SRA database:
 - i. Accounts Inspection (AI) matter
 - ii. Intervention (INT) matter
 - g. Regulatory matters that relate to any of the following:
 - i. Existing accountants“ report extension request
 - ii. Forensic Investigation (FI) Report
 - iii. Practice Standards Unit (PSU) visit
 - iv. Assigned Risk Pool (ARP) visit
 - v. Breach of Practising Certificate conditions
 - h. There are no reason(s) given by solicitor/accountant thought to indicate serious problems with the firm.
4. If the decision was made in CAU, what was the decision? **100%** (2/2)
- o Extension request granted
5. Were regulatory checks carried out? Yes: **100%** (2/2)

Regulatory Investigations Unit (RIU)

⁸ Two cases were dealt with in CAU and three were instigated by RIU, bypassing CAU involvement.

- 6. Were regulatory checks carried out? Yes: **100%** (30/30)
- 7. How long was the extension request?
 - o Under 3 months **70%** (21/30)
 - o Over 3 months **30%** (9/30)

Extension requests under 3 months

- 8. Did the RIU caseworker make the decision? Yes: **47.6%** (10/21)
- 9. If „yes“, what was the decision?
 - o Extension request granted **100%** (10/10)
- 10. If the RIU caseworker was not the decision-maker, was a recommendation made (to the adjudicator) that the application be refused? Yes: **72.7%** (8/11)
- 11. Was a memo or case note drafted to the adjudicator in each case? Yes: **100%** (11/11)
- 12. Did the memo or case note include all of the following information: Yes (to all): **81.8%** (9/11)
 - a. Details of the extension request and the accountants“ report to which it relates
 - b. Practising Certificate status
 - c. Indemnity Insurance details
 - d. Recent accountants“ report history
 - e. Previous complaints and history
 - f. Matters outstanding
- 13. Was case note disclosed to the relevant parties for comment prior to adjudication? Yes: **100%** (11/11)
- 14. What was the decision?
 - o Extension request granted **36.4%** (4/11)
 - o Extension request refused **54.5%** (6/11)

o No further action **9.1% (1/11)**

15. Was CAU notified of the decision? Yes: **100% (11/11)**

Extension requests over 3 months⁹

16. Was a memo drafted to the adjudicator in each case? Yes: **100% (9/9)**

17. Did the memo or case note include all of the following information: Yes (to all): **100% (9/9)**

- a. Details of the extension request and the accountants' report to which it relates
- b. Practising Certificate status
- c. Indemnity Insurance details
- d. Recent accountants' report history
- e. Previous complaints and history
- f. Matters outstanding

18. Was the RIU caseworker recommending the request be refused? Yes: **66.7% (6/9)**

19. If „Yes“, was the memo or case note disclosed to the relevant parties for comment prior to adjudication? Yes: **100% (6/6)**

20. What was the decision?

o Extension request granted **44.4% (4/9)**

o Extension request refused **56.6% (5/9)**

21. Was CAU notified of the decision? Yes: **88.9% (8/9)**

22. Does the reviewer consider the process to have been followed? Yes: **59.4% (19/32)**

⁹ Any requests over 3 months must be referred to Adjudication. Also any refusals of a request must be referred to Adjudication.

Waiver applications

1. Where was the application initiated?
 - Caseworking and Applications Unit (CAU) **88.9%** (16/18)
 - Regulatory Investigations Unit (RIU) **11.1%** (2/18)
2. If CAU, was the criteria for referring to RIU satisfied? Yes: **11.1%** (2/18)
3. Was the request made in writing? Yes: **100%** (18/18)
4. Was the request made on time (on or before the due date)? Yes: **66.7%** (12/18)
5. What additional information was requested in order to reach a decision?
 - None **27.8%** (5/18)
 - Copies of client account bank statements for the period **72.2%** (13/18)
6. Was there evidence to suggest that public interest was considered? Yes: **94.4%** (17/18)
7. Was there evidence to suggest that convenience to the solicitors practice was considered? Yes: **88.9%** (16/18)
8. Who made the decision?
 - Caseworker **38.9%** (7/18)
 - Adjudicator **61.1%** (11/18)
9. If adjudicator, was the caseworkers recommendation agreed with? Yes: **90.9%** (10/11)
10. What was the decision?
 - Grant waiver application **50.0%** (9/18%)
 - Refuse waiver application **50.0%** (9/18)
11. Was the subject solicitors practice informed of the decision? Yes: **100%** (18/18)

12. Was CAU notified of the decision?

Yes: **100%** (18/18)

13. Does the reviewer consider the process to have been followed?

Yes: **50.0%** (9/18)

Annex 3 – References

This section contains details of the documents provided for the purpose of assessing whether procedures had been followed by SRA employees when dealing with accountants' report related cases.

Document title	Format	Date
Technical booklet	Word	Sept 2009
RADC assessors training	Word	Jan 2009
Extension requests	Word	Unknown
Extension Requests – Delegated Powers	E-mail	May 2011
Lates	E-mail	Mar 2010
Operations, Customer Assistance Unit and Finance referral to Risk Assessment and Designation Centre	Word	Mar 2010
Outstanding procedure	Word	Sept 2010
Waiver training document	Word	Nov 2011
Waivers Policy	Word	Oct 2011