Subject: Stage 1 Service Complaint – Decision RGC[redacted] (Porter / O'Connor) – Procedural and Threshold-Test Failures

To: complaints@sra.org.uk
Cc: [redacted]@sra.org.uk

Dear Complaints Team / Mr Rayhan,

I submit this as a Stage 1 Service Complaint under the SRA's *Complaints Policy*. It concerns your decision dated 31 July 2025 to close my reports against Mr Sean O'Connor and Ms Claire Porter of Herefordshire Council without formal investigation, and your 12 August 2025 email explaining that I cannot request a review under Rule 3.4 ANRAR because I am not "the person who is the subject of the decision".

This complaint is not a mere disagreement with outcome; it concerns material flaws in the decision-making process and misapplication of the SRA's rules.

1. Procedural Breach – Failure to Apply the Assessment Threshold Test Properly

The *Assessment Threshold Test* (updated 30 December 2021) requires:

1. Consideration of a potential breach.
2. Whether the breach is sufficiently serious to justify action.
3. Whether the breach is capable of proof.

You were informed that crucial evidence — including internal council correspondence, flawed legal decision records, and access logs evidencing misconduct — remains in the possession of Herefordshire Council and could be obtained by the SRA. No such enquiries were undertaken before concluding that the matter failed the threshold.

Reaching a "capable of proof" conclusion without reasonable enquiries is contrary to your own published guidance, which recognises that complainants may not hold all relevant evidence and that the SRA should consider whether it is realistically obtainable.

2. Misuse of Rule 1.1 Classification to Avoid Review

Your email of 12 August 2025 stated that this matter falls under Rule 1.1 of the *Regulatory and Disciplinary Procedure Rules* (RDPRs) because it was handled by the Action and Early Resolution Team, and therefore is not subject to review under ANRAR.

While ANRAR review rights in Rule 3.4 apply only to Rule 3.1 decisions listed in Annex 1, this distinction does not exempt the SRA from procedural accountability:

- The *Enforcement Strategy* applies to all decisions, including early closures, requiring them to be evidence-based, proportionate, and capable of public justification.
- The *Assessment Threshold Test* applies equally to Rule 1.1 decisions; bypassing reasonable enquiries is a procedural flaw, not a difference of opinion.
- Rule 3.2 ANRAR empowers the SRA to review its own decisions or correct administrative errors on its own initiative, even where a complainant cannot trigger Rule 3.4.
- Reliance on Rule 1.1 to avoid scrutiny risks creating a systemic gap in regulation where serious allegations can be closed without investigation and without review. This undermines public confidence in the SRA's regulatory role.

3. Anticipated Defence and Response

If it is argued that further enquiries would not alter the outcome, or that discretion not to exercise Rule 3.2 has been used:

- Such a position is unsustainable without first undertaking those enquiries or providing evidence-based reasons why they are impossible or disproportionate.
- The alleged breaches are ongoing; the evidence remains available from a regulated public authority. This is not a historic matter where proportionate regulation is hindered by time passed.
- Discretion must still be exercised lawfully, proportionately, and in the public interest — not in a way that effectively immunises alleged misconduct from scrutiny.

4. Public Interest and Regulatory Accountability

Your position that early closure decisions cannot be reviewed when the complainant is not the subject of the decision removes a critical safeguard. It allows potentially serious breaches to be closed without investigation or internal correction, even where there are material process flaws. This directly undermines public confidence in the SRA's ability to regulate effectively and transparently.

5. Requested Actions

I request that you:

1. Retain the case file and pause any administrative closure pending resolution of this complaint.
2. Refer the matter to the Corporate Complaints Team for full Stage 1 investigation in accordance with the *Complaints Policy*.
3. Provide a full written copy of the assessment and reasoning for closure, including internal notes, case records, and all materials considered.
4. Confirm whether the SRA will exercise its own-initiative powers under Rule 3.2 ANRAR to review the decision in light of the procedural issues raised.

This complaint is submitted within the relevant time limits. I expect a full Stage 1 response within the timelines set out in the SRA's policy.

Sincerely



Mr Chris Bury