

ADR Report under 20(6) of Directive 2013/11

ADR REPORT



This survey is provided by the European Commission in order to assist competent authorities in the Member State preparing their reports under article 20(6) of Directive 2013/11/EU on consumer ADR. Please complete and return this survey by 9 July 2018.

SECTION 1: INTRODUCTION

1. Name of your organisation?

The Chartered Trading Standards Institute

2. Member State in which your organisation is based?

UK

3. Is your organisation?

- The sole competent authority in your Member State
- The competent authority designated as single point of contact in your Member State (your Member State has designated more than one competent authority under Directive 2013/11/EU)

4. How many competent authorities operate in your Member State (including your own)?

8

5. Briefly describe your relationship with the other competent authorities in your Member State and how you collected information for the report from those competent authorities.

The Chartered Trading Standards Institute works closely and has good relationship with the other UK Competent Authorities. Each competent Authority was requested to complete a word format of this form and the information has been collated.

CTSI as The Single Point of Contact works with the other Competent Authorities in the UK. They are:

Ofgem (Gas and Electricity Markets Authority)
The UK Civil Aviation Authority (CAA)
FCA - Financial Conduct Authority
National Trading Estate Agency Team (Powys County Council)
Gambling Commission
Ofcom (The Office of Gas and Electricity Markets)
The Legal Services Board

Please note that there is no report from the Legal Services Board as there are currently no approved bodies in this sector.

SECTION 2. ADR ACTIVITY

This section is concerned with the activities within the purview of individual competent authorities in your Member State. If there is more than one competent authority in your Member State, please fill in this section separately for each competent authority. To that purpose, you can add another competent authority at the end of each section.

Competent authority 1

1. Name of competent authority

The Chartered Trading Standards Institute. Designated by UK Government as the Competent Authority for the unregulated sector.

2. Date it commenced operating as competent authority

01/07/2015

3. Define its area of competence (eg. by business sector)

The Chartered Trading Standards Institute's competent authority role covers all unregulated consumer to business contracts in the UK except those laid out in Part 1 (7) of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015.

Part 1 (7)

'Contracts to which these Regulations do not apply

7. These Regulations do not apply to a contract to the extent that it is for health services provided by health professionals to patients to assess, maintain or restore their state of health, including the prescription, dispensation and provision of medicinal products and medical devices (and "health professionals" has the meaning given by Article 3(f) of Directive 2011/24/EU of the European Parliament and of the Council on the application of patients' rights in cross-border healthcare)(a).

4. Describe the certification process for becoming a notified ADR body under this competent authority.

Organisations that express an interest in applying to become an Approved ADR body are provided with The ADR Guidance document and application form.

<https://www.tradingstandards.uk/media/documents/commercial/adr/ctsi-adr-guidance-brochure-final-15-06-17.pdf>

The organisations are then required to submit the application form and detailed explanation and evidence of how they meet the criteria laid down in Schedule 3 of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015.

An auditor/certifier is then appointed to make a full assessment of whether the applicant meets the quality criteria. This will involve reviewing each criterion and how the applicant states that they meet these criteria. The audit/certification process involves a site visit, during which all quality criteria will be reviewed with the applicants. Example of checks made on the site visit include:

Discussions with ADR officials regarding experience, training, qualifications, continued learning, action taken if conflict of interest is identified, handling of cases, and general case management procedures.

Sight and discussion of policies and procedures such as conflict of interest.

Remuneration of staff and evidence that this enables the ADR official to operate in an impartial/independent manner.

Sampling of cases to review that timeframes can be adhered to, that dates related to complete complaint files are recorded and that the cases reflect the competence and knowledge of the ADR Staff.

The auditor/certifier fully reviews the applicant's website and any documents that are sent to the parties, to ensure that they are transparent, in plain English and contain all the information required under the ADR regulations.

An auditor/certifier then issues the applicant with a report that outlines the findings and lists any points that need to be addressed. Once the applicant has satisfactorily dealt with these matters approval/certification is granted.

5. How may ADR bodies be notified under its competence?

There are currently 29 approved ADR bodies approved and operating in the unregulated sector that have been approved by The Chartered Trading Standards Institute.

It should be noted for the statistical data in this report. That not all approved ADR bodies have reached a first reporting anniversary and data for those bodies is included in this report.

22 approved bodies have reported data for 2 full years and a further five bodies have reported or one full year. 2 have not yet reached a reporting anniversary.

Association of British Travel Agents – (ABTA Ltd.)

Consumer Dispute Resolution Limited - Operating as Retail ADR

Ombudsman Services – The Consumer Ombudsman

The Motor Ombudsman Limited

NetNeutrals EU Ltd.

The Furniture Ombudsman (also operating as Dispute Resolution Ombudsman)

Office of the Independent Adjudicator for Higher Education – (OIAHE)

National Conciliation Service

Renewable Energy Consumer Code – (RECC)

The Association of Chartered Certified Accountants - (ACCA)

The Property Ombudsman

British Vehicle Rental and Leasing Association – (BVRLA) (also operating as ECRCS, European Car Rental Conciliation Service.)

Centre for Effective Dispute Resolution – (CEDR)

Pro Mediate (UK) Limited

Independent Appeals Service – (IPC, Independent Parking Community)

Royal Institution of Chartered Surveyors – (RICS)

The Waterways Ombudsman Scheme

Federation of Master Builders (FMB)

HF Resolution Ltd trading as the Property Redress Scheme and The Cosmetic Redress Scheme

Removals Industry Ombudsman Scheme Ltd

ADR Group (IDR Europe Ltd)

The Independent Football Ombudsman (IFO)

The NI Law Society (The Dispute Resolution Service)

Kent ADR

Bus Users UK Ltd

STAR (Secure Tickets from Authorised Retailers)

South Yorkshire Trading Standards Services

Nockolds Resolution, operating Optical Consumer Complaints Service (OCCS) and The Veterinary Client Mediation Service (VCMS)

The Carpet Foundation

6. How many disputes were submitted to these ADR bodies?

235853

7. How many complaints were accepted for handling by these ADR bodies?

116655

8. How many complaints accepted by these ADR bodies were subsequently withdrawn?

By consumers?

5871

By traders?

9. How many complaints were refused to be handled by these ADR bodies?

119198

10. Of cases not handled, what percentage were refused because:

(a) No prior attempt was made to contact trader

33.62 %

(b) Complaint was frivolous/vexatious

5.71 %

(c) Dispute was previously considered by ADR body or court

5.51 %

(d) The value of the claim fell below an applicable threshold

0 %

(e) The complaint was not submitted on time

5.13 %

(f) Dealing with the complaint would impair the effective operation of the ADR body

0.22 %

11. In how many cases did these ADR bodies were able to complete the procedure with an outcome?

12. How many days on average did these ADR bodies take to issue a final decision?

80.64

13. Is there a mechanism for checking and ensuring compliance by the parties with the outcome of the ADR procedure?

- Yes
 No

a) Who is in charge of the mechanism (e.g.ADR entities; other)?

The ADR Bodies

b) How does the mechanism work?

The mechanism for checking and ensuring compliance by the parties with the outcome of the ADR procedure varies across the 29 approved ADR bodies in this sector.

Approved ADR bodies that are run by trade bodies often will have procedure that deal with compliance by the trader, however this is often penalties linked with membership of that body rather than enforcing compliance to the consumer. Lack of compliance may result in expulsion from the trade body but might not mean enforcement of the outcome.

It should be noted that this data is not readily available from many of the approved ADR bodies in this sector.

c) What is the rate of compliance by traders and consumers with the ADR outcome? (Please provide supporting data)

Not known

This survey can be expanded to allow you enter information on all competent authorities in your Member State.

- Add another competent authority to this survey:** I need to provide information about another competent authority
- Do not add another competent authority:** I have provided information on all of the competent authorities in my Member State

Competent authority 2

1. Name of competent authority

Ofgem (Gas and Electricity Markets Authority)

2. Date it commenced operating as competent authority

01/04/2015

3. Define its area of competence (eg. by business sector)

The regulated gas and electricity sector.

4. Describe the certification process for becoming a notified ADR body under this competent authority.

Organisations interested in providing ADR services in the energy sector under the Directive may apply to Ofgem showing how they meet published criteria.

We have already appointed which is also certified as an ADR provider under the Directive.

Ofgem recently consulted (January 2018) how certification of more than body under the ADR Directive only would work in the current redress framework in the GB energy sector.

5. How many ADR bodies are notified under its competence?

One ADR provider has been certified as provider in the energy sector under the Directive.

This provider (Ombudsman Service: Energy) is also the statutory Ombudsman for the gas and electricity sector appointed by Ofgem under UK legislation (the Consumer, Estate Agents & Redress Act 2008). Ofgem's policy is to approve a single provider under this legislation.

6. How many disputes were submitted to these ADR bodies?

187373

7. How many complaints were accepted for handling by these ADR bodies?

102181

8. How many complaints accepted by these ADR bodies were subsequently withdrawn?

By consumers?

48285

By traders?

9. How many complaints were refused to be handled by these ADR bodies?

85192

10. Of cases not handled, what percentage were refused because:

(a) No prior attempt was made to contact trader

 %

(b) Complaint was frivolous/vexatious

 %

(c) Dispute was previously considered by ADR body or court

 %

(d) The value of the claim fell below an applicable threshold

 %

(e) The complaint was not submitted on time

 %

(f) Dealing with the complaint would impair the effective operation of the ADR body

 %

11. In how many cases did these ADR bodies were able to complete the procedure with an outcome?

102181

12. How many days on average did these ADR bodies take to issue a final decision

35

13. Is there a mechanism for checking and ensuring compliance by the parties with the outcome of the ADR procedure?

- Yes
- No

a) Who is in charge of the mechanism (e.g.ADR entities; other)?

Yes – through reporting to, and follow-up, by Ofgem.

b) How does the mechanism work?

c) What is the rate of compliance by traders and consumers with the ADR outcome? (Please provide supporting data)

You have now provided information on 2 competent authorities. This survey can be expanded to allow you to enter information on all competent authorities in your Member State.

- Add another competent authority to this survey:** I need to provide information about another competent authority
- Do not add another competent authority:** I have provided information on all of the competent authorities in my Member State

Competent authority 3

1. Name of competent authority

The UK Civil Aviation Authority (CAA)

2. Date it commenced operating as competent authority

07/04/2015

3. Define its area of competence (eg. by business sector)

Consumer Aviation Sector

4. Describe the certification process for becoming a notified ADR body under this competent authority.

<https://www.caa.co.uk/CAP1324>

5. How many ADR bodies are notified under its competence?

Two

6. How many disputes were submitted to these ADR bodies?

32438

7. How many complaints were accepted for handling by these ADR bodies?

28921

8. How many complaints accepted by these ADR bodies were subsequently withdrawn?

By consumers?

By traders?

9. How many complaints were refused to be handled by these ADR bodies?

3517

10. Of cases not handled, what percentage were refused because:

(a) No prior attempt was made to contact trader

7.7 %

(b) Complaint was frivolous/vexatious

1.0 %

(c) Dispute was previously considered by ADR body or court

0.7 %

(d) The value of the claim fell below an applicable threshold

0 %

(e) The complaint was not submitted on time

6.9 %

(f) Dealing with the complaint would impair the effective operation of the ADR body

%

33.0

11. In how many cases did these ADR bodies were able to complete the procedure with an outcome?

18296

12. How many days on average did these ADR bodies take to issue a final decision

61

13. Is there a mechanism for checking and ensuring compliance by the parties with the outcome of the ADR procedure?

- Yes
 No

a) Who is in charge of the mechanism (e.g.ADR entities; other)?

ADR entities

b) How does the mechanism work?

The CAA approved ADR entities must inform consumers that, if payment of any award agreed as an outcome of the ADR process has not been paid within the required timeframe, that the consumer should report such to the ADR entity. The CAA-approved ADR entities must inform consumers of the method by which consumers should notify them. The CAA-approved ADR entities must raise the matter with the airline / airport until payment is made.

c) What is the rate of compliance by traders and consumers with the ADR outcome? (Please provide supporting data)

In the aviation ADR schemes approved by the CAA, the decisions by the ADR entities are binding on the business. The rate of compliance is therefore 100%.

In the aviation ADR schemes approved by the CAA, the decisions by the ADR entities are binding on the business. The rate of compliance is therefore 100%.

You have now provided information on 3 competent authorities. This survey can be expanded to allow you to enter information on all competent authorities in your Member State.

- Add another competent authority to this survey:** I need to provide information about another competent authority
 Do not add another competent authority: I have provided information on all of the competent authorities in my Member State

Competent authority 4

1. Name of competent authority

FCA - Financial Conduct Authority

2. Date it commenced operating as competent authority

01/07/2015

3. Define its area of competence (eg. by business sector)

The FCA is the competent authority for the Financial Ombudsman Service (FOS) which offers a resolution scheme for certain disputes brought by consumers against financial businesses.

4. Describe the certification process for becoming a notified ADR body under this competent authority.

The FCA assessed if the FOS qualifies as an ADR entity in 2015 following consideration of the FOS' application and reasoned statement. The application was considered and approved by the FCA sub-committee to the Board for Oversight

5. How many ADR bodies are notified under its competence?

One

6. How many disputes were submitted to these ADR bodies?

638969

7. How many complaints were accepted for handling by these ADR bodies?

623634

8. How many complaints accepted by these ADR bodies were subsequently withdrawn?

By consumers?

4331

By traders?

9. How many complaints were refused to be handled by these ADR bodies?

15335

10. Of cases not handled, what percentage were refused because:

(a) No prior attempt was made to contact trader

%

(b) Complaint was frivolous/vexatious

%

(c) Dispute was previously considered by ADR body or court

%

(d) The value of the claim fell below an applicable threshold

%

(e) The complaint was not submitted on time

%

(f) Dealing with the complaint would impair the effective operation of the ADR body

%

11. In how many cases did these ADR bodies were able to complete the procedure with an outcome?

12. How many days on average did these ADR bodies take to issue a final decision

13. Is there a mechanism for checking and ensuring compliance by the parties with the outcome of the ADR procedure?

- Yes
- No

a) Who is in charge of the mechanism (e.g.ADR entities; other)?

b) How does the mechanism work?

c) What is the rate of compliance by traders and consumers with the ADR outcome? (Please provide supporting data)

You have now provided information on 4 competent authorities. This survey can be expanded to allow you to enter information on all competent authorities in your Member State.

- Add another competent authority to this survey:** I need to provide information about another competent authority
- Do not add another competent authority:** I have provided information on all of the competent authorities in my Member State

Competent authority 5

1. Name of competent authority

2. Date it commenced operating as competent authority

3. Define its area of competence (eg. by business sector)

4. Describe the certification process for becoming a notified ADR body under this competent authority.

5. How many ADR bodies are notified under its competence?

6. How many disputes were submitted to these ADR bodies?

7. How many complaints were accepted for handling by these ADR bodies?

8. How many complaints accepted by these ADR bodies were subsequently withdrawn?

By consumers?

387

By traders?

0

9. How many complaints were refused to be handled by these ADR bodies?

186

10. Of cases not handled, what percentage were refused because:

(a) No prior attempt was made to contact trader

28 %

(b) Complaint was frivolous/vexatious

0.15 %

(c) Dispute was previously considered by ADR body or court

1.4 %

(d) The value of the claim fell below an applicable threshold

0.11 %

(e) The complaint was not submitted on time

0.34 %

(f) Dealing with the complaint would impair the effective operation of the ADR body

0 %

11. In how many cases did these ADR bodies were able to complete the procedure with an outcome?

2510

12. How many days on average did these ADR bodies take to issue a final decision

47

13. Is there a mechanism for checking and ensuring compliance by the parties with the outcome of the ADR procedure?

Yes

No

a) Who is in charge of the mechanism (e.g.ADR entities; other)?

The ADR entity

b) How does the mechanism work?

Review by the entity's disciplinary committee (or similar) with potential for expulsion from scheme for failure to pay/comply with an award. Under terms of MoU between schemes, the expelled agent/firm cannot join another redress scheme until award complied with.

Further legal sanctions also available against expelled agent/firm if they continue to trade without redress membership (enforcement by National Trading Standards Estate Agency Team and local Trading Standards authorities)

c) What is the rate of compliance by traders and consumers with the ADR outcome? (Please provide supporting data)

Don't know, but over 90%

You have now provided information on 5 competent authorities. This survey can be expanded to allow you to enter information on all competent authorities in your Member State.

- Add another competent authority to this survey:** I need to provide information about another competent authority
- Do not add another competent authority:** I have provided information on all of the competent authorities in my Member State

Competent authority 6

1. Name of competent authority

Gambling Commission

2. Date it commenced operating as competent authority

01/10/2015

3. Define its area of competence (eg. by business sector)

Gambling sector – We regulate all forms of gambling in Great Britain with the exception of spread betting.

4. Describe the certification process for becoming a notified ADR body under this competent authority.

On application, the ADR providers must demonstrate that they satisfy the conditions listed in the ADR regulations. We've also added a requirement that ADR entities should and must consider the application of consumer rights regulation, where this is applicable and is at the heart of a dispute. For example, providers must consider unfair terms in disputes.

5. How may ADR bodies are notified under its competence?

9

6. How many disputes were submitted to these ADR bodies?

13318

7. How many complaints were accepted for handling by these ADR bodies?

10497

8. How many complaints accepted by these ADR bodies were subsequently withdrawn?

By consumers?

1351

By traders?

0

9. How many complaints were refused to be handled by these ADR bodies?

2821

10. Of cases not handled, what percentage were refused because:

(a) No prior attempt was made to contact trader

24 %

(b) Complaint was frivolous/vexatious

13 %

(c) Dispute was previously considered by ADR body or court

0 %

(d) The value of the claim fell below an applicable threshold

0 %

(e) The complaint was not submitted on time

2 %

(f) Dealing with the complaint would impair the effective operation of the ADR body

7 %

11. In how many cases did these ADR bodies were able to complete the procedure with an outcome?

9146

12. How many days on average did these ADR bodies take to issue a final decision

38

13. Is there a mechanism for checking and ensuring compliance by the parties with the outcome of the ADR procedure?

- Yes
 No

a) Who is in charge of the mechanism (e.g.ADR entities; other)?

There is an informal mechanism – ADR providers will inform us if gambling operators are not complying with their decisions. Also we monitor customer complaints which are another valuable source of intelligence to check gambling operators are complying with decisions. We would then take action against non-compliant operators depending on the individual circumstances of the case.

b) How does the mechanism work?

See answer above.

c) What is the rate of compliance by traders and consumers with the ADR outcome? (Please provide supporting data)

In their 2017 annual reports, 7 out of 9 providers reported 100% compliance with the ADR outcome. The remaining 2 providers did not handle any disputes, therefore the question was not applicable.

You have now provided information on 6 competent authorities. This survey can be expanded to allow you to enter information on all competent authorities in your Member State.

- Add another competent authority to this survey:** I need to provide information about another competent authority
 Do not add another competent authority: I have provided information on all of the competent authorities in my Member State

Competent authority 7

1. Name of competent authority

Ofcom (The Office of Gas and Electricity Markets)

2. Date it commenced operating as competent authority

09/07/2015

3. Define its area of competence (eg. by business sector)

Broadcasting, Communications and Postal Sectors.

4. Describe the certification process for becoming a notified ADR body under this competent authority.

The Alternative Dispute Resolution for Consumer Dispute regulations 2015 sets the minimum standards that ADR scheme applicants must meet to achieve certification. This can be found in schedule 3 of the regulations. There are no costs associated with certification.

ADR schemes approved solely under the regulation can only deal with non-communications disputes. For example, they cannot deal with complaints about broadband service etc, those are dealt with by the ADR schemes that are approved by Ofcom under the Communications Act 2003.

The Communications Act 2003 also gives Ofcom powers to approve ADR bodies. Section 54(2) of the Communications Act says Ofcom must not approve schemes unless they are independent, transparent, non-discriminatory, effective, free of charge to the customer, vested with powers to compensate, and able to enforce compensation awards. Therefore approval are made under the Communications Act 2003 and The Alternative Dispute Resolution for Consumer Dispute regulations 2015 for Broadcasting, Communications and Postal Sectors.

Only two ADR schemes are approved for the Communications Act purposes.

5. How many ADR bodies are notified under its competence?

Five are approved under the regulation – Ombudsman Services (OS), Communications and Internet Services Adjudication Scheme (CISAS), CDRL, Promediate and Postal Redress Service (POSTRS).

Two are approved under the Communications Act: Ombudsman Services (OS), Communications and Internet Services Adjudication Scheme (CISAS)

6. How many disputes were submitted to these ADR bodies?

172681

7. How many complaints were accepted for handling by these ADR bodies?

80737

8. How many complaints accepted by these ADR bodies were subsequently withdrawn?

By consumers?

207

By traders?

2230

9. How many complaints were refused to be handled by these ADR bodies?

21190

10. Of cases not handled, what percentage were refused because:

(a) No prior attempt was made to contact trader

27.6

%

(b) Complaint was frivolous/vexatious

0.33

%

(c) Dispute was previously considered by ADR body or court

1.8

%

(d) The value of the claim fell below an applicable threshold

0.08

%

(e) The complaint was not submitted on time

0.38

%

(f) Dealing with the complaint would impair the effective operation of the ADR body

0

%

11. In how many cases did these ADR bodies were able to complete the procedure with an outcome?

68719

12. How many days on average did these ADR bodies take to issue a final decision

36

13. Is there a mechanism for checking and ensuring compliance by the parties with the outcome of the ADR procedure?

- Yes
- No

a) Who is in charge of the mechanism (e.g.ADR entities; other)?

ADR entities

b) How does the mechanism work?

The schemes have different methods for checking compliance. Some schemes close the case after the compliance period has ended on the presumption that compliance has been adhered to.

The customer will then contact the scheme if they believe the outcome has not been complied with, and the scheme will raise this with the communication providers. Other schemes receive active notification from the communication providers that the decision has been complied with – and if this isn't received the scheme will begin to chase.

c) What is the rate of compliance by traders and consumers with the ADR outcome? (Please provide supporting data)

We wouldn't provide data as not all the schemes record compliance.

You have now provided information on 7 competent authorities. This survey can be expanded to allow you to enter information on all competent authorities in your Member State.

- Add another competent authority to this survey:** I need to provide information about another competent authority
- Do not add another competent authority:** I have provided information on all of the competent authorities in my Member State

SECTION 3: BEST PRACTICES & SHORTCOMINGS

This section requires information to be given about the ADR landscape in your Member State. You should use this section to provide an overview, but you should also provide specific examples and statistical data where appropriate.

1. What best practices have developed relating to ADR in your Member State?

CTSI (Competent Authority and Single point of Contact)

The implementation of the ADR directive saw the criteria in the Directive mirrored in UK law. As such, an ADR body needs to full comply with all the criteria laid down but does not, unless it wishes to, go over and above this level of provision.

Compliance with the criteria has seen many ADR bodies required to make significant changes to their existing procedures, policies and general case handling processes.

There is now far more transparency in the information that is provided to the parties before, during and at the closure of a dispute. Information has to be provided in a clear, transparent manor at all stages which helps to improve the consumers view of impartiality, particularly when an approved ADR body is also a trade body.

We have seen many approved ADR bodies provide more training for their ADR officials, as a result of the audit/certification process. Approved bodies are now expected to keep clear records of staff training, appraisals, etc which may not have been done previously.

Complaints made, about the services provided by approved bodies, are discussed with the relevant body. This is used to examine their meeting of the criterion and also to encourage best practice around customer service.

It is hoped to hold meetings, with groups of approved bodies, to further identify and encourage best practices, particular around the issues of transparency and effectiveness.

Ofgem (Gas and Electricity Markets Authority)

Not Answered

CAA (The Civil Aviation Authority)

Consumer satisfaction with ADR – the CAA is facilitating best practice in the area of satisfaction surveys for consumers that use ADR.

Quality assurance – the CAA is facilitating best practice in the area of quality assurance for ADR decision making.

FCA - Financial Conduct Authority

The FOS shares information about the complaints that they see and their approach to resolving them in their annual review, ombudsman news and insight reports which are all available on their website.

National Trading Estate Agency Team (Powys County Council)

Not Answered

Ofcom (The Office of Gas and Electricity Markets)

OS and CISAS report on their performance and put complaints data on their websites, allowing customers and stakeholders to see how the schemes are performing against their KPIs and also to compare traders (for example to compare the percentage of complaints found in the consumers favour).

The schemes also provide us with monthly/quarterly reporting on volumes of accepted cases, service types generating most referrals and how well communication providers are signposting. Both schemes also co-operate with Ofcom and attend regular meetings and calls to discuss issues and set up industry liaison meetings between themselves and members to encourage best practice.

The Gambling Commission

We currently hold a roundtable with all our ADR providers every six months. One of the agenda items included is sharing best practice and common problems in the sector. This is a good forum for everyone to speak to each other and try to ensure consistency across all providers. We are using this forum (alongside meetings with a smaller group of providers) to develop the new ADR provider framework.

2. What actions, if any, were taken to promote trader engagement in your Member State and how do you assess the success of these actions (please provide data supporting your assessment).

CTSI (Competent Authority and Single point of Contact)

There has been no generic targeted promotion to encourage trader engagement.

In the UK, much of the action taken to promote trader engagement has been through trade bodies. Many trade bodies require businesses, through their code of conduct, to engage in an ADR process with a consumer once 'deadlock' has been reached. Therefore, in the unregulated sector, where a business is a member of a trade body and that body is now an approved/certified body, the level of engagement in ADR procedures is high.

However, there is a need for far more promotion to ensure that traders are aware that they should be directing a consumer towards an approved/certified ADR body and that if a trade body, of which they are a member, were to apply for approval/certification of the ADR scheme that they run, it would allow the trader to be fully compliant with the ADR regulations.

Ofgem (Gas and Electricity Markets Authority)

Not Answered

CAA (The Civil Aviation Authority)

Direct engagement with traders and their trade bodies by the CAA and the CAA-approved ADR bodies

Changing the way the CAA's own complaint handling service works, for example by charging airlines directly for each complaint handled, so as to encourage take up of ADR by traders

'Reputational regulation', e.g. 'naming and shaming', to encourage the larger airlines not participating in ADR to participate

FCA - Financial Conduct Authority

As above, the FOS shares information about the complaints that they see and their approach to resolving them in their annual review, ombudsman news and insight reports which are all available on their website. It also shares insights with trade bodies and businesses to help them improve industry standards and complaints handling.

National Trading Estate Agency Team (Powys County Council)

Not answered

Ofcom (The Office of Gas and Electricity Markets)

Our General Conditions (GCs) require all trading communication providers to be members of a ADR scheme that is approved by Ofcom under the Communications Act.

Our GC14.5 compliance programme works to ensure that all communication providers trading in the UK are signed up to an ADR Scheme that is approved under the Communications Act. We have also done a lot of work on ADR signposting to ensure that communication providers are facilitating appropriate signposting of ADR. We get data from communication providers on their complaints and are in regular contact to discuss

any concerns. As well as this with any statements, we first send out a consultation to seek trader input. On the back of our review, traders had raised concerns about the cases which the schemes were accepting – so we agreed to do a study on this.

The Gambling Commission

All gambling operators licenced with the Gambling Commission are required to name an authorised ADR that they are prepared to work with as part of their licence.

3. Describe the instances, if any, of cooperation between competent authorities and/or ADR bodies in your Member State?

CTSI (Competent Authority and Single point of Contact)

CTSI (ADR Single Point of Contact) arranges regular meetings with all UK competent authorities. There is very positive communication and sharing of good practice between the competent authorities. Meetings will discuss matters such as consistency in the approval/certification process across competent authorities, updates on the reporting functions of the regulations, complaints received by competent authorities concerning approved ADR bodies, annual reports, two-year activity reports, policy matters, trader and consumer awareness and enforcement.

It is planned that there will be 'Round Table' meetings between approved/certified ADR bodies, in the unregulated sector, to discuss matters such as compliance with ADR decisions, trader and consumer awareness, sharing of good practice etc.

All approved bodies are invited to complete an annual survey which looks at their experience of the audit /certification process, the ongoing compliance checks, whether there has been an increase in engagement by businesses, and what benefits have they seen to being an approved/certified ADR body etc.

Ofgem (Gas and Electricity Markets Authority)

Ofgem, as the competent authority has put in place formal arrangements, alongside the statutory consumer body, to use complaint data and intelligence to highlight issues in the market and to coordinate action to address them.

CAA (The Civil Aviation Authority)

The CAA meets quarterly with both of the ADR bodies approved by it. Discussions also take place in between quarterly meetings

FCA - Financial Conduct Authority

The FCA has oversight responsibilities for the FOS and as such the two organisations engage on a regular basis. These meetings and discussions involve other issues as well as ADR issues. The insight that the FOS provides us with contributes to our operational objective to protect consumers and ensure that markets work well.

National Trading Estate Agency Team (Powys County Council)

Not Answered

Ofcom (The Office of Gas and Electricity Markets)

Two of the schemes, OS and CISAS, publish data showing complaint outcomes and categories including CPs with the other scheme. As well as this, if one scheme expels a member due to non-compliance, they will notify the other scheme. Ofcom also hosts roundtables to ensure consistency and discussion between the

two schemes.

The Gambling Commission

.We have been working co-operatively with our ADR providers to develop a new framework for additional requirements that approved ADR providers in the gambling sector will need to meet in the future alongside the requirements of the ADR regulations.

Also ADR providers work with us to bring to our attention possible breaches of a gambling licence (which is beyond their competency to deal with).

4. Describe cooperation between ADR entities and national enforcement authorities in your Member State (Article 17 of Directive 2013/11/EU)

CTSI (Competent Authority and Single point of Contact)

There is currently no regulated relationship. Some ADR bodies will have relationship with various government bodies to provide data for policy development etc.

Ofgem (Gas and Electricity Markets Authority)

Formal Memorandum of Understanding (and associated regular engagement) governs the relationship between Ofgem and the Ombudsman Service: Energy

CAA (The Civil Aviation Authority)

The CAA is also a national enforcement authority. Trader compliance with consumer law is covered at the CAA's quarterly meetings with the ADR bodies approved by it.

FCA - Financial Conduct Authority

The FOS continues to engage to share good practice and innovation with other ADR schemes through their membership of the Financial Dispute Resolution Network, International network of financial Ombudsman Schemes and the Ombudsman Association.

National Trading Estate Agency Team (Powys County Council)

Not Answered

Ofcom (The Office of Gas and Electricity Markets)

N/A

The Gambling Commission

Not Known.

5. In your Member State is there at least one ADR body available to solve consumer disputes in each economic sector covered by Directive 2013/11/EU? (Please be specific about any gaps in coverage that may exist)

CTSI (Competent Authority and Single point of Contact)

There is good coverage in the UK by ADR bodies but a few gaps remain, for example, in the rail sector. It is hoped that this will soon be covered.

However, even though there is good sector cover by ADR bodies this does not necessarily mean good access for consumers or good engagement by traders. There can be great consumer frustration when there is an ADR body that operates in the required sector, but the trader will not engage, even when the trader has

provided the name of the approved ADR body. The trader has fulfilled the trader requirement under the legislation but still does not have to engage with the body.

Coverage is important but without trader engagement coverage has no impact.

Ofgem (Gas and Electricity Markets Authority)

Not Answered

CAA (The Civil Aviation Authority)

Not Answered

FCA - Financial Conduct Authority

The FOS offers both a mandatory and a voluntary alternative dispute resolution scheme for disputes about a range of financial products and services brought by consumers against financial businesses

National Trading Estate Agency Team (Powys County Council)

Not Answered

Ofcom (The Office of Gas and Electricity Markets)

N/A

The Gambling Commission

N/A

6. Does a residual ADR entity operate in your Member State? if so, what is the share of consumer disputes submitted to ADR entities handled by the residual ADR entity?

CTSI (Competent Authority and Single point of Contact)

The residual sector in the UK is covered, at present, by 29 approved /certified ADR bodies as mentioned earlier. Some of these operate in specific sectors of the unregulated market, as they are trade body based, and others are generalists.

Ofgem (Gas and Electricity Markets Authority)

Not Answered

CAA (The Civil Aviation Authority)

In the consumer aviation sector, the CAA has maintained its own complaint handling service to handle consumer complaints in relation to airlines and airports that do not participate in ADR. The scope of the CAA's complaint handling service is limited to consumer complaints arising in relation to Regulation EC261/2004, Regulation EC1107/2006, and lost, damaged or delayed baggage under the Montreal Convention.

FCA - Financial Conduct Authority

No

National Trading Estate Agency Team (Powys County Council)

Not Answered.

Ofcom (The Office of Gas and Electricity Markets)

N/A

7. Describe the overall situation in your Member State in relation ADR quality according to the following criteria:

(a) Transparency

CTSI (Competent Authority and Single point of Contact)

The approved ADR bodies in the unregulated sector are thoroughly assessed in relation to transparency on approval/certification. All are required to clearly display the logo that shows that they are an approved /certified ADR body for the purposes of Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015. The audit process ensures that each body provides on its website and in a durable form if requested all the points laid out in Schedule 3: 5(a-p). They are required to provide this information in a clear, understandable and easily found manner.

The bodies are asked to hold a conflict of interest log, where any conflict that may affect a case is recorded so as to enhance transparency.

Checks are made to ensure that annual reports are displayed on websites within the required time frame of within 1 month of the anniversary of approval.

Approved bodies are encouraged to share documentation with both parties as a matter of course not just on request to demonstrate transparency.

Schedule 3: 5 (c) says:

5. The body makes the following information publicly available on its website in a clear and easily understandable manner, and provides, on request, this information to any person on a durable medium—

(c) its ADR officials, the method of their appointment and the duration of their appointment;

This is one criteria that has been contentious and where the need for transparency has had to be balanced with protection of staff. Naming of staff has led to unwarranted communication to staff members outside of their work roles. Therefore, CTSI does not insist that staff ADR officials are named.

Ofgem (Gas and Electricity Markets Authority)

Not Answered

CAA (The Civil Aviation Authority)

Good.

FCA - Financial Conduct Authority

The FOS publishes an annual activity report as required under the ADR regulations 2015.

National Trading Estate Agency Team (Powys County Council)

Not Answered

Ofcom (The Office of Gas and Electricity Markets)

Ofcom consider both OS and CISAS to be transparent. Both schemes published a broad range of

information. That information includes its contact details, a statement that it has been approved by Ofcom, the procedural rules it operates and the grounds on which it can refuse to deal with a dispute, and an annual report summarising its activity over the previous year. Following our review, both Schemes committed to reviewing and improving their websites to ensure consumers can quickly find the information they need to fully understand the ADR process, including the service standards they can expect and the steps they can take if they are dis-satisfied with how their complaint has been handled.

The Gambling Commission

On application, the ADR providers must demonstrate that they satisfy the conditions listed in the ADR regulations. However, having reviewed complaints handling in gambling in 2017, we recognise that there are areas that could be improved to make the process fairer and more transparent to consumers.

We are currently developing a new framework of additional requirements that approved ADR providers in the gambling sector will in future need to meet alongside the requirements of the ADR regulations. This will include the following areas

Customer service

Decision remit

Transparency/Independence

Consistency and quality of decisions

Identifying emerging trends

We expect that this will help consumers to better understand and trust ADR providers in the industry, including being reassured of their independence. Consumers should also be more informed about the dispute process and what it involves, which may encourage more uptake of ADR. They should also have their expectations managed better during the process, leading to better faith in the system.

(b) Independence

CTSI (Competent Authority and Single point of Contact)

With so many of the approved/certified ADR bodies in the unregulated sector also being trade bodies, independence has been an important part of the auditing process to ensure that consumer can have confidence in the ADR process. Consumers can have the view that the body cannot be independent, when the body looking at the dispute is a membership body that in essence relies of fees from membership to operate.

Through the audit/certification process meetings are held to examine, with the ADR officials, the issue of conflict of interest, that training that is provided on sector specific matters is not biased to the industry concerned and that ADR officials are not in any way paid according to the outcome of the case. CTSI is confident that all the approved ADR bodies handle disputes without influence from the other functions the organisations may operate.

The approved ADR bodies are asked to provide details of cases, over a period of time, that were found in favour of the consumer/trader.

Ofgem (Gas and Electricity Markets Authority)

Not Answered

CAA (The Civil Aviation Authority)
Good.

FCA - Financial Conduct Authority

Section 225(1) of FSMA provides for a scheme under which certain disputes may be resolved quickly and with minimum formality by an independent person.

National Trading Estate Agency Team (Powys County Council)

Not Answered.

Ofcom (The Office of Gas and Electricity Markets)

OS and CISAS have structures and processes in place to provide a suitable environment for adjudicators and investigation staff to manage cases independently from interference or influence from member communication providers.

The Gambling Commission

Please see answer above.

(c) Accessibility/Cost

CTSI (Competent Authority and Single point of Contact)

Consumer access to an approved/certified ADR body is largely free in the unregulated sector. Where there is a cost to the consumer it has been ensured that this is truly nominal, as outlined in the regulations.

The cost to consumer has been the most difficult criteria of the regulations for some ADR bodies to meet. A number of applications to become approved /certified bodies, have been withdrawn as the body cannot meet this criterion. Offering the process free to the consumer can mean that the cost of the procedure is weighted upon the business. Where the business has a choice whether to engage in the ADR process, this cost often deters the business from agreeing and engaging to the process.

The approved ADR bodies have to provide clear contact details as well as clear guidance on how to log and progress a dispute. They are required to ensure that the necessary information is provided to all parties, irrespective of the means of initial and ongoing contact.

Ofgem (Gas and Electricity Markets Authority)

Not Answered

CAA (The Civil Aviation Authority)

Good. One of the CAA-approved ADR bodies levies a consumer fee if the consumers complaint is not upheld (in any area). Although the fee is relatively small, the CAA is currently reviewing it.

FCA - Financial Conduct Authority

The service provided by the FOS is free to consumers at point of use. Information on the cost to be borne by businesses and the costs to be awarded by the body at the end of the procedure is provided on the FOS' website.

National Trading Estate Agency Team (Powys County Council)

Not Answered

Ofcom (The Office of Gas and Electricity Markets)

OS and CISAS offer a range of different services to consumers to help them log a complaint; they accept complaints via phone, email and letter, and utilise online portals, which allow those consumers with internet access to monitor the progress of their case and submit additional information via the portal. The Schemes also have enquiry teams that can respond to consumer queries regarding the process and whether a particular complaint is within scope. The Schemes are able to provide documents in a variety of formats and in multiple languages where required.

Both schemes are free to use for consumers.

The Gambling Commission

All ADR providers are accessible and must be free of charge to customers.

(d) Expertise in dispute resolution

CTSI (Competent Authority and Single point of Contact)

This is an area where there has been evidence of increased training and provision of various courses for ADR officials in many of the approved/certified ADR bodies in the unregulated sector.

It is not seen as essential that an ADR official has formal qualifications in either law or dispute management however there needs to be evidence to show relevant experience, training to ensure competent dispute management and decision on disputes. Direction is made to <https://www.businesscompanion.info/>

On audit and compliance visits sample cases will be examined for handling procedures and outcome decisions.

Ofgem (Gas and Electricity Markets Authority)

Not Answered

CAA (The Civil Aviation Authority)

Good. The CAA is planning to commission an independent reviewer to review a number of aspects of the ADR function. This will include training and expertise, as well as quality assurance

FCA - Financial Conduct Authority

The FOS's recruitment processes are designed to identify people who have the skills and experience required in dispute resolution. A comprehensive induction programme, which includes a period of mentoring, is undertaken on joining the service. Case handlers have to demonstrate that they possess the necessary knowledge and skills including an understanding of the law relevant to their role to be able to pass their probation period.

National Trading Estate Agency Team (Powys County Council)

Ofcom (The Office of Gas and Electricity Markets)

In our review, a consultant carried out a review of a sample of decisions and found 85% of decisions were reasonable, with the rest being questionable in that another outcome could've been reached. But none were found to be entirely unreasonable.

The Gambling Commission

Some ADR providers specialise in particular types of gambling, while other are more general. In practice,

one ADR provider receives over 90% of all disputes, which can make it more difficult for other providers to develop expertise in dispute resolution. As part of our review of ADR in gambling we are considering whether consumers would benefit from more streamlined ADR processes.

8. What shortcomings relating to ADR operating in your Member State have you identified? How did you identify these shortcomings? (Please provide supporting data).

CTSI (Competent Authority and Single point of Contact)

The major short coming is the lack of trader take up. There can therefore be coverage in all sectors but without trader take up consumers still have no access to ADR. This has clearly been identified through our communication with approved ADR bodies. They report that many consumers will contact them directly, however, on contacting the trader it is clear that the trader will not engage.

Ofgem (Gas and Electricity Markets Authority)

Not Answered

CAA (The Civil Aviation Authority)

Most obviously, participation in voluntary on the part of traders in the UK. Although participation is at a high level (around 80%), full coverage appears very unlikely

Further improvements to the operation of ADR in the consumer aviation sector were identified by the CAA through its review last year. See here: <http://www.caa.co.uk/CAP1602>

FCA - Financial Conduct Authority

On 20 September 2017, following a review of information by the FCA of information provided by the FOS, it was confirmed that the FOS continued to meet the requirements of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015.

National Trading Estate Agency Team (Powys County Council)

Not Answered

Ofcom (The Office of Gas and Electricity Markets)

Customer satisfaction data of ADR schemes isn't effectively captured. Communication providers are also unhappy with the cases the schemes are accepting – so Ofcom is currently carrying out an assessment on this.

The Gambling Commission

We have received consumer complaints about the length of the ADR process. Some consumers have contacted us advising the difficulty they have had contacting ADR providers for updates.

Supporting data can be found in section 6.13 of our review of complaints handling in gambling 2017.

9. What issues relating to compliance with quality criteria emerged and what actions were taken, if any, to address these issues?

CTSI (Competent Authority and Single point of Contact)

With 29 approved/certified ADR bodies matter relating to on going compliance with the quality criteria do occur. One of the main areas has been around the changes of staff and retaining the ongoing knowledge of the quality criteria, particularly in relation to transparency and the information that needs to be provided to the parties in a clear and accessible manner.

Compliance checks are made regularly both remotely and on-site. These highlight the areas that need to be

addressed and time frames are set for implementation of required amendments.

On occasion an approved ADR body has not been able to make the required changes and they have subsequently withdrawn from the ADR approval process.

Formal notice has also been given on one occasion under Part 2 (13) of The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015

Ofgem (Gas and Electricity Markets Authority)
Not Answered

CAA (The Civil Aviation Authority)
None, in relation to decision making. However, we have experienced issues in obtaining high-quality regulatory data from the CAA-approved ADR bodies. This has now largely been addressed and we are working on further enhancements.

FCA - Financial Conduct Authority
N/A

National Trading Estate Agency Team (Powys County Council)
Not Answered

Ofcom (The Office of Gas and Electricity Markets)
Ofcom closely monitors KPI information from Comms Act approved ADR schemes. One ADR provider fell below KPI targets and Ofcom discussed the action the provider would need to take to ensure rapid improvement. The providers KPI performance was monitored monthly and performance improved quickly and returned to above target quickly. A plan was also put in place to ensure that problems were flagged sooner.

The Gambling Commission
After a question from an ADR provider, we sought legal advice on the requirement to share evidence with all parties when a decision is made and ensuring consumers are aware of their right to request evidence put forward by the other party. We've made all ADR providers aware of the requirements and are building additional guidance on them into the new framework of standards.

10. What, if any, enforcement proceedings were taken against ADR bodies in your area of competence?

CTSI (Competent Authority and Single point of Contact)
CTSI has not had to take action to formerly remove an approved ADR body. However, as mentioned previously, we have issued a formal notification for improvement to be made within 3 months. Improvements have and are being made by this scheme.

Two other schemes have withdrawn prior to any formal notice being issued.

Ofgem (Gas and Electricity Markets Authority)
Not Answered

CAA (The Civil Aviation Authority)

None.

FCA - Financial Conduct Authority

N/A

National Trading Estate Agency Team (Powys County Council)

Not Answered

Ofcom (The Office of Gas and Electricity Markets)

None.

The Gambling Commission

Although we have not taken formal enforcement proceedings against an ADR provider, we have required providers to explain their processes and demonstrate how they meet the requirements of the ADR Regulations when consumer complaints indicate there may be a problem. As a result of this, one provider modified its processes to make them more compliant. We carried out subsequent random checks of decision letters at intervals to ensure compliance with the changed processes.

11. What other steps if any were taken by your organisation to improve ADR in your area of competence?

CTSI (Competent Authority and Single point of Contact)

We actively encourage organisation/trade bodies that operate in the ADR sector to become approved ADR bodies. There are many trade bodies that operate ADR for their members and through approval they would allow their members to direct a consumer to an approved ADR body.

Ofgem (Gas and Electricity Markets Authority)

Not Answered

CAA (The Civil Aviation Authority)

A number of improvements to the operation of ADR in the consumer aviation sector were identified by the CAA through its review last year. See here: <http://www.caa.co.uk/CAP1602>

FCA - Financial Conduct Authority

Nothing to add.

National Trading Estate Agency Team (Powys County Council)

Not Answered

Ofcom (The Office of Gas and Electricity Markets)

We asked schemes to amend their websites, so consumers can easily find information and that information about their processes are explained in a user-friendly way. This includes making clearer the standards of service consumers can expect from the schemes and the steps that they can take if they are not satisfied with the service they have received.

We also asked the schemes to make clear that communication providers can log complaints with the Independent Assessor/Independent Reviewer.

We asked both schemes to publish case outcomes and case categories data including the other scheme to provide more helpful information to consumers. We also publish KPIs on our website.

The Gambling Commission

As mentioned previously we are developing a new framework of additional requirements that approved ADR providers in the gambling sector will in future need to meet alongside the requirements of the ADR regulations.

SECTION 4: RECOMMENDATIONS

1. What are your recommendations for improving the effectiveness and efficient functioning of ADR entities and of your national ADR landscape altogether?

CTSI (Competent Authority and Single point of Contact)

There needs to be significantly more trader take up to ensure that the ADR becomes accessible for the majority of consumers and that the existing ADR coverage is made use of.

Although the free or nominal cost to consumer is generally a positive to the ADR landscape there may need to be a more balanced approach, to encourage traders to engage with the process. The question has to be asked whether the cost of the process is too heavily weighted on the trader and therefore a deterrence to ADR engagement.

Even though on paper, the UK has good sectoral coverage this is not the case in practice. Where an approved ADR body may be willing to take any dispute in the unregulated sector this does not ensure engagement from the trader even though the body maybe competent.

If a trader is a member of a trade body that offers an ADR services but is not an approved/certified body, the trader is unlikely to agree to engage with the ADR body that would take any complaint. They are likely to still choose to engage with the un approved ADR body.

Ofgem (Gas and Electricity Markets Authority)

Not Answered

CAA (The Civil Aviation Authority)

The UK government is currently developing a new Aviation Strategy. As part of this, it is considering a number of important consumer issues, including for example whether participation in ADR should be made mandatory in the UK for the consumer aviation sector. The CAA is currently considering these issues and will be participating in the development of the UK government's Strategy

FCA - Financial Conduct Authority

Nothing to add.

National Trading Estate Agency Team (Powys County Council)

Not Answered

Ofcom (The Office of Gas and Electricity Markets)

Following on from our most recent review, we recommended the following to improve the effectiveness and efficient functioning of the ADR schemes:

Amend website so consumers can easily find information and that information about their processes are explained in a user-friendly way. Includes making clearer the standards of service consumers can expect from the schemes and the steps that they can take if they are not satisfied with the service they have received.

Make clear that communication providers can log process complaints with the Independent Assessor /Independent Reviewer.

Put additional processes in place to handle spikes in complaint volumes.

The Gambling Commission

Please see question 7 (a)

2. Are there any other issues you would like to raise?

CTSI (Competent Authority and Single point of Contact)

None.

Ofgem (Gas and Electricity Markets Authority)

N/A

CAA (The Civil Aviation Authority)

None.

FCA - Financial Conduct Authority

No

National Trading Estate Agency Team (Powys County Council)

Not Answered.

Ofcom (The Office of Gas and Electricity Markets)

N/A

The Gambling Commission

We are aware of two complaints that have been submitted through the ODR platform but have not reached the intended ADR provider. We are not sure if this is a common problem as only a small percentage of disputes in the gambling sector come via this method. In addition, one provider has noted that they have received disputes via the ODR platform that relate to non-gambling matters, which could indicate that consumers are not finding the platform as clear as it could be.

Please note: After you have submitted the survey, you will have the possibility to download your answers and re-use them for the ADR report to be published under your responsibility. We recommend you follow the same structure as in this survey.

Contact

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