

CTSI Requirements and Guidance on seeking approval as a Consumer ADR Body operating in non regulated sectors.

(For the purpose of Alternative Dispute Resolution for Consumer Disputes Regulations 2015)

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What is ADR Approval?

A number of organisations across the UK and Europe provide alternative dispute resolution (ADR) as a simple, low cost way to resolve sales and service contractual disputes between traders and consumers, out of court. To increase the awareness of these ADR organisations, from 1st October 2015, new rules will require traders to give consumers information about an ADR organisation who could help them. This legal information requirement, will be 'triggered' when the trader cannot resolve a dispute they have with a consumer using their internal processes. The ADR organisation they must provide information about can only be one that has been checked and certified to ensure the independence, quality and accessibility of the service it provides. A certified ADR provider will be able to resolve both online and offline disputes and can only refuse to deal with a consumer who initiates a complaint with it, under very limit circumstances. To gain approval, an ADR organisation must apply to one or more of the relevant UK Competent Authorities for the types of transactions it deals with or that have been assigned to it in particular.

In the UK the Competent Authorities are; The Financial Conduct Authority (In relation to the Financial Ombudsman Service in particular); Legal Services Board (In relation to the Office for legal Complaints in particular); Civil Aviation Authority; Gambling Commission; Gas and Electricity Markets Authority; Office of Communications and finally the lead enforcement authority for the purposes of the Estate Agents Act 1979. They are the relevant Competent Authority to make an application to gain ADR approval, in relation to transactions for which they have regulatory responsibility, an oversight or have been specifically assigned responsibility.

Where the dispute transaction falls outside the remit of these Competent Authorities and for the services of the Pensions Ombudsman in particular, then the Secretary of State is the relevant Competent Authority. However, the Secretary of State has delegated responsibilities for dealing with applications and approval in its role as Competent Authority, to the Chartered Trading Standards Institute (CTSI). CTSI will also act for the Secretary of State, as the single point of contact for all the UK Competent Authorities.

The legal requirements for the ADR approval process (or 'certification'), the information requirements for traders and the appointment of Competent Authorities, are all contained in The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 (In this guide referred to as, 'the regulations').

Do all ADR providers have to obtain approval?

No. However, when a trader cannot resolve a dispute with a consumer in relation to the millions of sales and service contracts that occur daily, you cannot be the ADR organisation the trader is legally required to inform the consumer about. This is particularly the case, in relation to online disputes directed via the new European Online Dispute Resolution (ODR) hub. Traders do not need to inform consumers

about an approved ADR organisation that could help them, if the contractual dispute is for health services. For guidance on the meaning of 'health services' as well as consumer, trader, sales contract and service contract see Appendix A to this guide. These are all important definitions, in deciding if the trader information requirements apply.

Some organisations ('intermediaries') may provide assistance to consumers to help them resolve a dispute by providing legal advice or directing them to another appropriate person for help (commonly referred to as 'signposting') or even just advise them that they should try to resolve the problem with the trader first. This is not ADR, provided that there is no element of being 'actively' involved in trying to resolve the dispute between the consumer and trader.

In Appendix G, we have provided some basic guidance on the trader information requirements A & B that are to be introduced on 1st October 2015. In addition, some indication of communications with an ADR provider that is not ADR.

Can all ADR organisations apply for approval?

Nearly all ADR organisations can apply for approval and also many organisations that perhaps do not consider themselves as an ADR provider. To be approved and become certified your organisation must be 'established' in the UK, provide the application information requested in Appendix C to this guidance and provide any additional information CTSI requires to be satisfied that you can either; meet the requirements of Schedule 3 of the regulations (the 'requirements' set out in the main body of this guide) or that the requirements will be met within a reasonable time of approval being granted. For the meaning of 'established' see Appendix A. Please note, that some Competent Authorities have the legal power to require additional requirements to be met, including binding solutions on traders, if these are for higher consumer protection purposes. CTSI does not have such legal powers.

What is the application and approval process?

Once you have sent your initial application information to CTSI, (see Appendix C), we will appoint a named auditor to assess your application. Your auditor will work with you to help answer any concerns you have about meeting the requirements to be certified. Where you need to make changes to your organisation, policies or procedures, and then provided that this can be done within a reasonable time, your approval will not be delayed. We will specify what we consider that reasonable time to be, in consultation with you as part of your application. The CTSI auditor assessing your application will work with you to decide a deadline for what is a reasonable time to make any changes you are planning and comment on your ability to make those changes. An audit check will be made to confirm that those changes have been made. While the auditor can advise you on meeting requirements, they cannot implement those changes for you as a consultant might. If there is any further information your auditor needs to see to be satisfied that you meet the requirements to be certified, they will tell you this and the format they would like the information in. In some cases this may mean a meeting with you or access to information at your offices. Once satisfied that the requirements are met (or will be), the auditor will

notify CTSI of their findings and on payment of the audit invoice CTSI will subsequently inform you in writing that you have been approved. The date of this letter will be your 'approval date'. If you request one, we can also provide a summary of the audit findings. As this is a new process to everyone involved, auditors will document any questions of interpretation of the requirements that arise. Wherever possible, these questions and our answer will be shared with all applicants, auditors and other Competent Authorities via your nominated contact and on the CTSI website.

Despite the best endeavours of our auditor to help you achieve approval, if they cannot be satisfied you have met or will meet the requirements; your application will need to be rejected. If this happens, CTSI will write to you explaining this decision and the grounds for it. CTSI will also send you the details of the appeal mechanism against this decision.

Once I have achieved approval is that all I need to do?

No, the approval process creates an ongoing relationship with the Competent Authority. You will need to advise CTSI in writing if any of the information you provided as part of your application (including additional information requested by CTSI) has changed. In addition based on the anniversary of your 'approval date', you will need to supply CTSI with the information required for annual and twice yearly reports. The information required in these reports is that set out in Appendix D and E of this guidance. Based on the information in these reports CTSI is required to assess annually, your continuing compliance with the requirements of Schedule 3 of the regulations.

If CTSI has reason to believe that you are no longer meeting the Schedule 3 requirements, and the reason for this is within your control, we are required to issue you with a written notice. That written notice will identify what requirement is not met, and request that it is promptly corrected or at most within 3 months of the date of the notice. If you fail to correct the problem and it is a serious failure, we are required to write to you withdrawing your approval. CTSI would provide you with details of the appeal mechanism against this decision, along with the written notice.

What does approval cost?

Charges:

Approval auditing is carried out over a three year cycle. Year one will see a full audit against all the provisions of this guidance. Year four will see the cycle start again with the need for organisations to again seek a full audit. Years two and three of the cycle will see a lesser audit to ensure continuance of approval.

Charges for approval (year one):

CTSI's fees are dictated by the provisions of Regulation 15 of The Alternative Dispute Regulations for Consumer Disputes (Competent Authorities and Information) Regulations 2015. CTSI will seek to recover all reasonable costs and expenses

incurred in evaluating an application. A £2000(+vat) charge will be added to recover the costs of the other functions of the competent authority role.

To this end CTSI will charge £750(+vat) for every day (based upon an eight hour day) spent by each person in carrying out the relevant functions (this will be pro-rated in respect of any period less than a day spent by any person). CTSI will also make a charge to cover its reporting and admin functions (£2000.00 +vat).

The following is presented as a guide to cost for a year one audit:

- Small case load, single scheme. Approximate cost of approval auditing: £6,000(+vat)
- Large case load, single scheme. Approximate cost of approval auditing: £7,500(+vat)
- Delivers multiple schemes. Approximate cost of approval auditing: £10,500(+vat)

Charges and arrangements for ongoing approval (years two and three):

In years two and three CTSI will carry out an audit which will look at:

- Compliance with all reporting requirements
- Any concerns identified in the previous audit
- A random selection of the requirements of this guidance

The Secretary of State is not required to approve an application if there is a fee outstanding under this Regulation in relation to that application.

Once an auditor has been appointed, these fees will become chargeable whether or not an application is successful.

How do I apply?

The contact details for CTSI, to send us your initial application (Appendix C) as well as to ask us any questions you may have, please email CTSI at adrenquiries@tsi.org.uk. The audit process is designed to be dynamic and for the auditor to support the ADR towards approval. However, the approval process is necessarily robust and the specific requirements largely restricted by the relevant directive and implementing regulations. In the event that a body is refused approval, being unable or unwilling to make any changes, or improvements requested by the auditor, a request for appeal can be made through the auditor, to CTSI.

Set out below are the requirements you will need to comply with to become and remain, a certified ADR provider. There are 6 main areas you need to consider in relation to the operation of your organisation and these are; Access; Expertise, independence and impartiality; Transparency; Effectiveness; Fairness; Legality.

Within each of these main areas are the detailed requirements that we must be satisfied you meet. Next to the detailed requirements, we have provided guidance to help you understand what is required of you. We have put the detail of some of the requirements, for example, the information to be contained in annual reports, as an Appendix to this guide. If you are still not sure about how you might meet these requirements, then we are happy to discuss this with you. See the contacts page of this guide for how best to do this. Please note, all aspects of the requirements on certified ADR bodies have not yet been implemented into UK law. When they are, there will be these requirements to meet in order to achieve or retain approval in addition to those below.

ADR APPROVAL REQUIREMENTS

1 ACCESS

	1.1 To consumers & traders	
	Requirement	Guidance
1.1.1	Maintain an up-to-date website which provides the parties in dispute with easy access to information concerning the ADR procedure, and which enables consumers to submit an initial complaint submission and the requisite supporting documents online.	<ul style="list-style-type: none"> An up to date and user-friendly website is an essential tool for the consumer and trader ('the parties') in dispute to access your service. A website will also be a key tool to address many of the requirements you will need to meet for initial and ongoing approval. In Appendix A you can find definitions of 'trader' and 'consumer'. A very important point to note is that a trader cannot initiate a complaint, only a consumer can.
1.1.2	Provide parties, at their request, with information concerning the ADR procedure in a 'durable medium'.	<ul style="list-style-type: none"> A 'durable medium' is a term used often in these requirements and has a detailed definition. Appendix A sets out this definition.
1.1.3	Enable the consumer to file an initial complaint submission by post.	

1.1.4	Enable the exchange of information between the parties via electronic means or, if one of the party wishes by post.	<ul style="list-style-type: none"> • Electronic means can be any method that fits within your operating model, for example, email & attachments, facetime, Skype etc. • You must make provision for those that do not have access to electronic communication methods by the use of the post. • The method chosen for enabling electronic information exchange and the extent to which either electronic or postal exchange can happen at all, will be dependent on the type of dispute and the extent parties wish to reveal personal contact information to each other.
1.1.5	Accept both domestic and cross-border disputes, including disputes referred via the new online dispute resolution platform.	<ul style="list-style-type: none"> • The precise meaning of ‘domestic dispute’ and ‘cross- border dispute’ are important, in relation to the scope of your organisation’s approval. See Annex A, for guidance and examples on their meaning. The online dispute resolution (ODR) platform is a new EU mechanism for directing disputes regarding online purchases to the appropriate certified ADR provider. You need to have a mechanism for receiving disputes via this mechanism in place.
1.1.6	Set out in your policies the grounds, if any, upon which you will refuse to deal with a dispute, despite being ‘competent’ to deal with a dispute of that type.	<ul style="list-style-type: none"> • Only certain specific grounds are permitted to refuse to deal with a dispute and these are set out in Appendix B. • This means that no other grounds for refusal are permitted and should you have them, they will need to be removed from your policies. • It does not mean that you have to have any grounds for refusing to deal with a dispute, just that if you do only one or more of those in Appendix B is allowed. ‘Competent’ to deal with a dispute type is explained in Appendix A.

1.1.7	Where, in accordance with your policy on refusals you are unable to consider a dispute submitted to you, that you provide both parties with a reasoned explanation of the grounds for not considering the dispute within three weeks of receiving the 'complaint file'. Unless, you have been misled by one of the parties into considering a dispute.	<ul style="list-style-type: none"> • Three weeks or 21 days from the receipt of the complaint file is the deadline for informing the parties that you will not be able to consider a dispute. • What constitutes a 'Complaint file' and thus the trigger for the three week refusal explanation is set out in Appendix A definitions. • It is important to note that if one of the parties has sought to deliberately mislead you on a matter relating to one of the grounds for refusing to deal with the dispute, you may still decide to refuse to deal with the dispute, even though the three-week deadline has passed.
1.1.8	Your policy on refusals, particularly in relation to the level of any monetary threshold you set, shall not unreasonably prevent or restrict consumers' access to your ADR procedure.	<ul style="list-style-type: none"> • A monetary limit that would unreasonably prevent access to your ADR procedure, will be a judgement based on your particular operating model and not least the value of the disputes with which you consider.
	1.2 CTSI (Competent Authority)	
	Requirement	Guidance
1.2.1*	When seeking to become certified, supply both the initial application information and any further information requested by CTSI, in order to assess whether you meet the requirements to be certified.	<ul style="list-style-type: none"> • The initial application information you need to provide CTSI with as part of the application process, is set out in Appendix C. • Any other information required as part of our assessment and any particular format for that information will be explained to you as, and when the need for it is identified. • The need for such information will be on the basis that we can be satisfied that you are 'more likely

		<p>than not' meeting each requirement.</p> <ul style="list-style-type: none"> • If you are applying for approval in anticipation of creating a brand new ADR body, or have to make changes to policy and procedures etc, then our judgement for granting approval will be on the basis that, we can be satisfied that you will meet the requirements within a reasonable time of your ADR body being formed. • We will specify what we consider that reasonable time to be, in consultation with you as part of your application.
1.2.2*	<p>Notify, without undue delay, any changes to the initial application and any further information requested by CTSI that was used in order to assess whether you met the requirements to be certified.</p>	<ul style="list-style-type: none"> • We would suggest that you use same form as you provided the initial application information, to notify CTSI of any changes to the initial application information, with changes clearly marked and new information added in. <p>It will be important for you to keep a record of what additional information you supplied to us as part of the initial application process, to ensure that you can notify us, should any of that information change. In this case contact us in relation to the best way to let us know about these changes.</p>

1.2.3*	Provide CTSI with an annual activity report.	<ul style="list-style-type: none"> • The information that you are required to provide annually in your report is set out in Appendix D. • The deadline for this report to be submitted to CTSI is within one month of the first and subsequent anniversaries, of the date you were granted approval. The report will relate to activities that have occurred within that year only. • CTSI will use this information primarily to assess whether you are still meeting approval requirements.
1.2.4*	Provide CTSI every two years with additional activity information.	<ul style="list-style-type: none"> • The additional information that you are required to provide to CTSI every 2 years, is set out in Appendix E. The deadline for this information to be submitted to CTSI is within one month of the second, fourth, sixth etc anniversaries, of the date you were granted approval. • The report will relate to activities that have occurred within that two-year period only. • CTSI will use this information primarily, to assess whether you are still meeting approval requirements.

2 EXPERTISE, INDEPENDENCE AND IMPARTIALITY

2.1 People 'ADR officials'		
	Requirement	Guidance
2.1.1	That you ensure each 'ADR official' possesses a general understanding of the law and the necessary knowledge and skills in the field of out of court or judicial resolution of consumer disputes, to be able to carry out their functions competently.	<ul style="list-style-type: none"> • What is meant by 'ADR official' is explained in Appendix A, but it does include managers. • The particular operating model of some ADR providers is such that a large number of case handlers are appointed. In these cases, auditors will be looking to see that the requirements are met based on an appropriate sample of ADR officials within the organisational structure. Judgements as to competency for individuals may be on the basis of; experience, training logs or file reviews by supervisors etc., and not necessarily formal qualifications. • We would suggest that as good practice, some form of record is maintained of whom within the organisation has been judged competent to be an 'ADR official' at any particular time. In addition, that the record states who has made that judgement and on what basis. • Additional good practice would be to provide training to ADR officials and again record the details of that training. If you do decide to provide training, then the details of that training will need to be provided as part of your two yearly additional activity information provided to CTSI.

2.1.2	That you ensure each 'ADR official' is appointed for a term of office of sufficient duration to ensure the independence of their actions and that they cannot be relieved of their duties without just cause.	<ul style="list-style-type: none"> • Good practice would be to record the term of office of each ADR official and why you believe it is sufficient to ensure independence of actions. • Good practice would be to record the reasons why any ADR official was removed from their position before the end of their term of office.
2.1.3	That you ensure no 'ADR official' discharges their duties in a way that is biased to either party of the dispute, or their representatives.	
2.1.4	That each 'ADR official' is remunerated in a way that is not linked to the outcome of the dispute resolution procedure.	
2.1.5	That you ensure each 'ADR official', without undue delay, discloses to you any circumstances that may, or may be seen to, affect their independence and impartiality or give rise to a conflict of interest with any party to the dispute they are asked to resolve. The obligation to disclose such circumstances shall be a continuing obligation throughout the dispute resolution procedure.	<ul style="list-style-type: none"> • This requirement clearly cannot and does not apply where you operate as only one ADR official. • Good practice would be to record those circumstances when and if they arise. • The disclosure requirement is quite onerous, as it requires not only circumstances that may affect independence and impartiality, but also that may be seen to do so.
2.1.6	That where ADR officials are employed or remunerated exclusively by a professional organisation or business association, a ring fenced budget is available.	<ul style="list-style-type: none"> • In this case you must have a separate and dedicated budget which allows remuneration of ADR officials and the certified ADR operation.

2.1.7	That you engage an equal number of representatives of consumer interests and trader interests, where the operating model of your dispute resolution procedure is to have a group of more than one person (a collegial body) with representatives of both professional organisations or business associations and consumer organisations.	<ul style="list-style-type: none"> • Where your ADR procedure is such that the dispute is examined by a panel of representatives then equality is required in relation to consumer and business interests. • Of course, an overall odd number of panellists can still be used, particularly when one member is chairing the panel and can be seen as neutral to consumer and business interests.
2.1.8	That ADR services for domestic and cross border disputes are not provided at all if an ADR official responsible for a dispute is either employed or remunerated directly by a trader who is party to the dispute.	

	2.2 Procedures	
	Requirement	Guidance
2.2.1	You have a procedure in place to replace an ADR official who declares they have a conflict of interest, in relation to a dispute with another ADR official.	<ul style="list-style-type: none"> Clearly, this option is not possible where you operate as only one ADR official. Good practice would be to document the details of this procedure.
2.2.2	If an ADR official who declares a conflict of interest cannot be replaced by another ADR official, then the ADR official must stop conducting the dispute resolution procedure. Your procedure must then go on to require; where possible, that a proposal is put to the parties that they submit their dispute to another ADR organisation competent to deal with it; where this is not possible, a declaration to the parties as to the circumstances of the conflict of interest declared by the ADR official, that they have a right to object to that official continuing to handle their dispute and that the organisation can only continue to deal with the dispute if no party objects.	<ul style="list-style-type: none"> Good practice would be to record the details of this occurrence, the reasons for what happened and decisions made. The percentage of discontinued dispute resolution procedures that occur, forms part of the activity information and reports that you need to supply to CTSI. In relation to the annual report, the reasons for discontinuation are also required. If another ADR body offered to the parties, it should be a certified one and must be competent in dealing with problems of the type that the dispute relates.

3 TRANSPARENCY

3.1 To the Public		
	Requirement	Guidance
3.1.1	Make publicly available on your website, or on a durable medium upon request, specific information about your procedures and organisation, in a clear and easily understandable way.	<ul style="list-style-type: none"> A checklist of the information you need to provide is set out in Appendix F. The requirements to be clear and easily understandable will be judged in relation to an average consumer, unless you provide help to a particular group of consumers that have particular needs. In which case we will make a judgement based on the needs of that group.
3.1.2	Make publicly available on your website, or on a durable medium upon request, the annual activity report that you are required to supply to CTSI.	<ul style="list-style-type: none"> The most recent report needs to be publicly available; however, it would be good practice to provide historical reports.
3.1.3	Are not formed as an ADR organisation simply to deal with one domestic or cross border dispute	

4 EFFECTIVENESS

4.1 To the dispute parties		
	Requirement	Guidance
4.1.1	The ADR procedure you operate is available and is easily accessible to the parties irrespective of where they are located, both by electronic and non-electronic means.	<ul style="list-style-type: none"> The ADR procedure must be available and easily accessible both online and offline and wherever the parties are located, including where applicable to parties in other EU member countries.
4.1.2	The parties must have access to the ADR procedure without being obliged to obtain independent advice or be represented or assisted by a third party, although they may choose to do so.	<ul style="list-style-type: none"> Access to the ADR procedure must be permitted without being obliged to; for example, appoint a lawyer or a legal advisor. The procedure should not prevent the parties of their right to independent advice or to be represented or assisted by, for example, a friend at any stage of the procedure should they want to. Good practice would be to advise parties of this requirement, at suitable steps in the overall procedure as well as before seeking access to it.
4.1.3	Your ADR procedure needs to be free of charge or available at a nominal fee for consumers.	<ul style="list-style-type: none"> What constitutes a nominal fee will be dependent upon a number of factors specific to each ADR provider. Any small fee or charge can be referred to as a nominal fee. A nominal fee could be a fixed amount or a percentage, which means they can cover a wide range of actual costs. Some organisations such as the small claims section of the county court have fees that are

		<p>tiered, depending upon the amount of the overall claim.</p>
4.1.4	<p>The parties to the dispute must be notified as soon as you have received all the documents containing the relevant information relating to the dispute, constituting a 'complete complaint file'.</p>	<ul style="list-style-type: none"> • Once a 'Complete complaint file' has been received, then the parties in dispute need to be informed. The meaning of 'Complete complaint file' is given in Appendix A. This is important definition, as it is the point at which the 90 days start for providing an outcome of the ADR procedure. • Good practice would be to record when you consider that you have received a complete complaint file.
4.1.5	<p>The outcome of the ADR procedure must be notified to the parties, within a period of 90 days from the date on which you receive the 'complete complaint file'. However, in the case of 'highly complex' disputes, you may, at your own discretion, extend the 90 calendar days' time period. You will need to inform the parties of the extension and how long it will be.</p>	<ul style="list-style-type: none"> • Good practice would be to record how and when parties were informed of any outcome and in complex cases, any extension time. • The judgement as to 'highly complex', will be dependent on the circumstances and would be relative to, for example, any non complex cases you deal with.

5 FAIRNESS

5.1 To the parties		
	Requirement	Guidance
5.1.1	To ensure the parties have the possibility, within a reasonable period of time, of expressing their points of view regarding the dispute.	<ul style="list-style-type: none"> What will constitute a reasonable time will depend upon the circumstances and complexity of the particular dispute. Good practice would be to notify parties what you consider a reasonable time.
5.1.2	To provide a party, upon request and within a reasonable time, with the arguments, evidence, documents and facts put forward by the other party to the dispute. This includes any statements made and opinions given by experts. When provided with this information you will need to allow the party a reasonable time to comment on the information and documents.	
5.1.3	To inform the parties to the dispute that they are not obliged to retain a lawyer or a legal advisor, but they may seek independent advice or be represented or assisted by a third party at any stage of the procedure.	<ul style="list-style-type: none"> Good practice would be to remind the parties of this right at suitable breaks or stages in the ADR dispute procedure and record this has happened.
5.1.4	To notify the parties of the outcome of the ADR procedure on a durable medium. As well as the outcome to provide a statement of the 'grounds' on which the outcome is based.	<ul style="list-style-type: none"> A statement of the 'grounds' will allow parties to see, for example, information provided by the parties that you have or have not taken into account and why, that has led to the outcome.

5.1.5	<p>Where the ADR dispute procedure is one that aims to resolve the dispute by proposing a solution, you will need to ensure the parties have the possibility of withdrawing from the procedure at any stage if they are dissatisfied with the performance or the operation of the ADR dispute procedure. You need to ensure parties are informed of that right before the procedure commences.</p>	<ul style="list-style-type: none"> • The ability to withdraw from the ADR dispute procedure will not apply to a trader who is obliged to participate because they are either; legally required to do so or they are a member of a trade association and the trade association rules require it. Good practice would be to inform both the parties of a trader being unable to withdraw, before the ADR dispute procedure commences. • Good practice would be to record when the parties were informed of any withdrawal rights.
5.1.6	<p>The parties before agreeing or following a proposed solution, are informed that:</p> <p>(i) they have the choice as to whether or not to agree to, or follow the proposed solution;</p> <p>(ii) participation in the procedure does not prevent the possibility of seeking redress through court proceedings;</p> <p>(iii) the proposed solution may be different from an outcome determined by a court applying legal rules; and</p> <p>(iv) the legal effect of agreeing to, or following the proposed solution.</p>	<ul style="list-style-type: none"> • The options of this requirement will not apply to a trader who is obliged to accept the solution proposed if the consumer accepts it, because they are either; legally required to do so or they are a member of a trade association and the trade association rules require it. • Good practice would be to inform both parties of the trader position before agreeing to or following a proposed solution.
5.1.7	<p>The parties, before expressing their consent to a proposed solution or amicable agreement, are allowed a reasonable period to reflect.</p>	<ul style="list-style-type: none"> • Where the trader is under a legal obligation or under the rules of a trade association, required to accept the outcome (once the consumer has accepted the outcome), the right of reflection does not apply to the trader. Good practice would be to advise the parties of the trader position where this is the case.

	6 LEGALITY	
	Requirement	Guidance
	6.1 Same law disputes	
	<p>To ensure that if the ADR procedure aims to impose a solution on the consumer, and there is no conflict of laws, the solution imposed does not result in the consumer being deprived of the protection those laws allow for. That is, unless those laws are allowed to disapply, by agreement of the parties.</p>	<ul style="list-style-type: none"> • This requirement only applies where your ADR procedure provides for you to impose a settlement on the consumer. No conflict of laws occurs, for example, when the dispute is purely a 'domestic dispute' (i.e. between a UK resident consumer and a UK 'established' trader). • The more detailed meaning of 'domestic dispute' & 'established' are given in Annex A. The laws that you cannot deny the consumer in relation to a 'domestic dispute', are the UK statutory consumer protection laws. Sometimes these statutory consumer protection laws do not apply, but this is only where those laws say this can happen and only then, where both parties have agreed it can happen.
	6.2 Conflicting law disputes	
	<p>To ensure that if the ADR dispute resolution procedure aims to impose a solution on the consumer, and there is a conflict of laws, the solution imposed does not result in the consumer being deprived of the protection those laws allow for by virtue of the European country the consumer is 'habitually resident'. That is, unless those laws are allowed to disapply, by agreement of the parties.</p>	<ul style="list-style-type: none"> • This provision only applies where the ADR procedure provides for you to impose a settlement on the consumer. A conflict of laws occurs, when the law agreed to be applied in relation to the dispute is not the law where the consumer is 'habitually resident'. For example a 'cross-border dispute' (i.e. between a UK 'established' trader and a non

		<p>UK resident consumer). The settlement cannot deny the consumer their statutory consumer protections under the law of the EU Member State where they are resident. The more detailed meaning of 'cross-border dispute' and 'habitually resident' are given in Appendix A.</p>
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7 CITIZENS ADVICE 'ADR HELPDESK' FUNCTION

Citizens Advice provides an ADR helpdesk to help consumers to navigate the ADR landscape. The proper working of this function can depend on Citizens Advice being able to gather, from ADR bodies, appropriate information about their contact channels and scope. For reasons of communication and efficiency Citizens Advice prefer to work towards a common approach and format for communications between them and the ADR bodies.

CTSI will not withhold approval from any ADR, solely on the grounds of failing to work effectively with Citizens Advice. However, as the helpdesk role is an important one, particularly to more vulnerable consumers, the workings of the relationship between the audited ADR body and Citizens Advice is likely to be reviewed. Where appropriate the auditor may make comment or suggestion to assist both parties in improving their joint working.

Appendix A Definitions

Term	Definition in the Regulations	Guidance and Examples
ADR Official	Means an individual employed, contracted or appointed by an ADR entity to oversee its alternative dispute resolution procedure, whether as a case-handler or in a management capacity.	As well as those actively involved in the particular ongoing disputes, the requirements that ADR officials must meet also apply to those who manage those staff and even those who manage or direct the whole operation. For example, Directors of an ADR provider company. This does not mean, that the ADR official must be exclusively involved in overseeing ADR procedure work, especially when considering managerial and director positions.
Average length of ADR procedure/time to resolve disputes.	N/A	Calculations need to be based upon the time from when you as an ADR provider, receive a complaint submission from a consumer, to the time when an outcome has been reached.
Competent	N/A	That you have the relevant combination of organisational or individual knowledge, training and experience of a particular kind of dispute, to allow you to understand the technicalities of that dispute and provide options and pathways for solutions that have previously proved successful. For example, resolving a contractual dispute relating to the purchase of a faulty car, might require at least a basic understanding of how a car works in addition to legal and other knowledge.
Complaint file	N/A	Constitutes the file once you as an ADR provider have received the information from the consumer and from the trader.
Complete complaint file	N/A	Not only all the information needed from the consumer and trader (the 'complaint file'), but also any required expert opinions, witness statements, external evidence etc, that is needed.

Consumer	Means an individual acting for purposes which are wholly or mainly outside that individual's trade, business, craft or profession.	<p>In some circumstances it will be obvious when an individual is not acting as a consumer, for example, an individual using a trading name who buys some accounting computer software asks to be invoiced for payment. In other cases it will be more difficult. An employee of a company sent to buy a pair of safety boots using petty cash, for example.</p> <p>A consumer must be an individual and so cannot be, for example, a sole trader, a company or a local authority. However, an individual may act on behalf of a group of individuals. For example, a contract for supply of concert tickets to an individual, where each in the group shares the cost.</p> <p>Some traders may of course provide statutory rights and treat the dispute as a consumer one even when an individual is not acting as a consumer. That will be their commercial decision; however such a dispute would not fall within ADR approval. Where there is a question as to the status of a consumer in a dispute, the trader must prove that an individual is not acting as a 'consumer'.</p>
Cross border dispute	Means a dispute concerning contractual obligations arising from a sales contract or a service contract where, at the time the consumer orders the goods or services, the trader is established in the United Kingdom and the consumer is resident in another member State;	See 'domestic dispute', regarding the importance of the order time as opposed to contract date.

Domestic dispute	Means a dispute concerning contractual obligations arising from a sales contract or a service contract where, at the time the consumer orders the goods or services, the consumer is resident, and the trader is established, in the United Kingdom;	The key issue is that of the position of the consumer and trader at the time of the order being placed. This may well be different to the time when the contract between the parties is made, for example, an on-line offer 'or bid', at an auction site.
Durable medium	Means paper or email, or any other medium that— (a) allows information to be addressed personally to the recipient, (b) enables the recipient to store the information in a way accessible for future reference for a period that is long enough for the purposes of the information, and (c) allows the unchanged reproduction of the information stored;	

Established (trader)	(a) If the trader is an individual, where the trader has his or her place of business; (b) if the trader is a company or other legal person or an association of persons, where it has its statutory seat, central administration or place of business, including a branch, agency or any other establishment.	Deciding which country a trader is based in, depends upon whether they are an individual or some other legal entity. If an individual then this could be a shop or a home address if that is where they are based. Other legal entities can be judged as being based at a number of locations depending upon their particular operational structure. For example, a Limited Company supplying cars may have a registered office address in France at an accountants', a car salesroom in Nottingham and a head office and call centre in Belgium.
Established in the UK (ADR organisation)	N/A	See 'Established (trader)', guidance. CTSI will make a judgement based on the facts as to whether you are based in the UK.
Habitually resident	"Habitual residence" is being determined in accordance with Regulation (EC) No 593/2008(b).	The country where the person lives as determined by, (EC) No 593/2008 on the law applicable to contractual obligations (Rome I).

Health Services	<p>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)</p>	<p>Health professionals’ are, for example, doctors of medicine, nurses, dentists, a midwife or a pharmacist etc. Therefore, health services are when such persons provide these services by, for example, providing prescription medicines, removing a tooth, providing plastic surgery etc. The boundaries of this definition can be very wide ranging indeed and so an ADR provider who is dealing with disputes that may involve health services will need to take specialist legal advice.</p>
Sales contract	<p>Means a contract under which a trader transfers or agrees to transfer the ownership of goods to a consumer, and the consumer pays or agrees to pay the price, including any contract that has both goods and services as its object;</p>	<p>While not specifically mentioned, the new concept of ‘digital content’ is introduced in relation to contractual consumer rights from 1st October 2015. For example, a health monitoring APP purchased for use on a mobile phone. Contracts for such ‘digital content’ for the purposes of these requirements should be considered as either goods or services, as best they fit into each category. For example, a music compact disc is goods although the music it contains is digital content.</p>

Service contract	Means a contract, other than a sales contract, under which a trader supplies, or agrees to supply a service to a consumer and the consumer pays, or agrees to pay, the price.	See 'Sales contract' in relation to disputes concerning 'digital content'.
Trader	Means a person acting for purposes relating to that person's trade, business, craft or profession, whether acting personally or through another person acting in the trader's name or on the trader's behalf.	A 'person' can mean more than one individual, for example, if a business is a partnership of two or more people. A 'person' can also be a company, a charity (or other not for profit organisation), a government department, a local authority or a public authority. If you are a trader that allows another person to act in your name or on your behalf, you would still be responsible for those contracts. For example, you employ people to make contracts for goods with consumers or you sub-contract with someone else to supply all or part of a service.
'Type(s)' of dispute	N/A	There can be many ways of describing the different kinds of dispute that you deal with. This could be very general, for example, 'shoe sales' or a more complex system of categorisation. For example, you may have major and sub categories in relation to the 'types' of goods and services in dispute, such as; Electrical goods (Major), with televisions, laptops etc as sub-categories. You may also have multiple categorisations, for example, a goods & services category and also the legal 'type' of dispute, for example, not as described, not fit for purpose. In addition, you may have no category system at all if you are very specialist or only deal with a very small number of disputes or do not feel the need to limit the kinds of matters you deal with.

Appendix B - Permitted grounds for dispute refusal

Set out below from (a) to (f) are the permitted grounds that you may refuse to deal with a dispute, in relation to certified ADR work. You may wish to apply all or some or none of these to your operation. However, you cannot use any other grounds for refusal.	Guidance
(a) Prior to submitting the complaint to you, the consumer has not attempted to contact the trader concerned in order to discuss the consumer's complaint and sought, as a first step, to resolve the matter directly with the trader.	You are allowed to refuse to deal with a dispute if the consumer has not 'attempted' to try to contact and resolve the matter with the trader first. This does not mean that you cannot seek to help the consumer (or a trader) in ways, other than ADR. See Appendix G that sets out guidance on the trader information requirements. The attempt made by the consumer must be a realistic one, although it is an attempt that is required and many disputes arise because a trader fails to respond to attempts from a consumer to raise problems about a transaction.
(b) The dispute is frivolous or vexatious.	If the matter at dispute is one that appears trivial or petty then you may refuse to deal with it. However, this has to be judged carefully against an issue that is, for example, a minor defect. A minor defect being grounds for civil law liability. In addition, if the nature of the dispute is maliciousness and there appears no evidence of the problem reported, you may refuse to deal with it.
(c) The dispute is being, or has been previously, considered by another certified ADR provider or by a court;	The court may be a civil one or a criminal court that has been asked to consider, for example, compensation in relation to what would otherwise be a criminal matter. Only if the dispute has or is being considered by another listed certified ADR provider, can you refuse to deal with it.
(d) The value of the claim falls below or above the monetary thresholds you have set.	

<p>(e) The consumer has not submitted a complaint to you within the time period specified by you for dealing with complaints, provided that such time period is not less than 12 Months from the date upon which the trader has given notice to the consumer that the trader is unable to resolve the complaint with the consumer.</p>	<p>The date of the consumer being 'given notice' is critical here. This notice may be written but could also be verbal. It could also be by virtue of a failure of the trader to respond to attempts at communication from the consumer to raise the problem in the first place or receive such 'notice'. The consumer has 12 months from the notice date, to complain. If your policies require a lesser time than this then they will need to be changed to meet this requirement. It would be good practice for traders to point out, at the giving of final notice, that while they have at least 12 months to go to a certified ADR provider with their complaint; the longer a consumer waits to initiate ADR procedures the more difficult it can often be, to obtain evidence and facts. This could be detrimental to their case.</p>
<p>(f) Dealing with such a type of dispute would seriously impair the effective operation of your ADR operation.</p>	<p>This is wide ranging in its meaning and might cover, for example, a dispute relating to such a complex issue that it would consume all of your resources to deal with it and thus damage the quality or even ability of your organisation to be involved in any other disputes. Based on your previous experience, it would be good practice to set out examples of the type of dispute that you have received in the past that may fall within this category.</p>

Appendix C – Initial Application Information

The information requested here, is that which CTSI is required by the legislation implementing the approval system to ask for. Please send us this information as an Excel attachment to an email. The email and other contact details for CTSI are given on the contacts page of this guide. If you want a copy of this page or any other part of this guide electronically, contact us and we will be happy to send it to you. Particularly in relation to items 4.1 and 5.0, you may want to refer to diagrams, procedures and policies that you have in place within your organisation. If you do, we would just ask that the particular part or paragraph of any documents you are referring to, are clearly indicated and the documents clearly referenced to this application. You can then attach them to your application email. In relation to website information, we would like a hard copy of the page or section you wish to refer to, because of the possibility of changes that can occur to such information over time.

If you are planning to change any aspect of your organisation in order to meet the requirements for approval, then please tell us. Let us know what that aspect is currently and what it will be. Tell us when the change will be implemented and how you will do it. This will allow us to be as flexible as we can in assessing your application and take into consideration any problems that may arise with making those changes. The CTSI auditor assessing your application will work with you to decide a deadline for what is a reasonable time to make any changes you are planning and comment on your ability to make those changes. An audit check will be made to confirm that those changes have been made. While the auditor can advise you on meeting requirements, they cannot implement those changes for you as a consultant might. You can also use this form to tell us about any changes to this information that occurs after you have received approval status. Notification of such changes is a requirement of continued approval.

Organisation and contact details;

What is your organisations name? (Where you operate as a limited company please provide your limited company name and number)

If you use any additional trading name (s) please provide these;

What is your organisations postal address;

What is your actual address (if different);

What is your general telephone contact number?

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What is your general email contact?

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Please tell us about the structure and funding of your organisation (This information should also demonstrate how you fit into the structure and funding arrangements of any larger organisation of which you are a part).

--

Nominated person and contact details (We would like to have one person, nominated by you, as the person to act as first contact in relation to matters relating to your application);

Nominated person's full name ;

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Telephone details for nominated person;

--

Email address for nominated person;

--

Tell us about your 'ADR officials' (see Appendix A for definition);

How many ADR officials do you have?

--

How many of these are managers and how many are case handlers?

--

How are they remunerated? (Remuneration is a key aspect regarding judgements of independence to carry out ADR and so be as detailed as possible).

--

Over what time period are ADR officials in office for?

--

Who employs your ADR officials? (Like remuneration, the body employing each ADR official is key to our judgement of independence so be as detailed as possible. The employment of a person may take many forms and should include, for example volunteers, persons hired or contracted to do work as an ADR official).

The ADR processes and policies you operate;

What are the rules of your ADR procedure?

What fees will you charge a consumer who initiates a complaint? (If this is not a fixed fee - tell us how you will calculate it. If your fees depend on the stage of complaint, please tell us all the fees at each stage).

What is the average length of your ADR procedure? (See Appendix A for a guidance on the start and finish points for you to calculate the 'length of ADR procedure')

What language(s) will you be prepared to accept an initial complaint from a consumer?

What language(s) will you be prepared to conduct your ADR procedure in?

Please tell us about the 'types' of disputes you cover? (For more information on 'types' of dispute see Appendix A)

On what grounds will you refuse to deal with a dispute?

Please give us a reasoned statement, which sets out how you meet the requirements of schedule 3 of The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015. As your competent body, we are required to assess you against these requirements and be satisfied that you meet them to grant approval. (The schedule 3 requirements are contained within the ADR Approval requirements, section of this guide. The schedule 3 requirements are all those except the sections marked with an asterix *. If you prefer you can use the ADR Approval requirements pages in this guide, as a checklist and write your reasoned statement in an adjacent box. To enable you to do this we can supply you with the requirements as an Excel spreadsheet).

Appendix D Annual activity report

Please submit this information to CTSI in the form of an Excel spreadsheet and in the format set out here, as far as possible. This will enable us to combine and compare information from a number of organisations. (The format for presenting the data, in the report on your website, does not have to be Excel).

(Information in brackets is for guidance only)

At the start of the report information please indicate which ADR organisation you are, the date of your report and the dates between which the data in your report relates.

Please tell us the total number of ‘domestic’ and ‘cross-border’ disputes you have received in the last year as well as the types of complaints to which the domestic disputes and cross-border disputes relate (Provide us with data using whatever categorisation system you use for ‘types’ of dispute. For example, you may have major and sub categories in relation to the ‘types’ of goods and services in dispute, such as; Electrical goods (Major), with televisions, laptops etc as sub-categories. You may also have multiple categorisations, for example, a goods & services category and also the legal ‘type’ of dispute, for example, not as described, not fit for purpose. In addition you may have no category system at all if you are very specialist or only deal with a very small number of disputes. If your categorisation system changes during the year let us know the information up to the change and afterwards explaining what has changed and how in a footnote to the data).

Domestic disputes type	Number received	Cross border dispute type	Number received
Total number of domestic disputes received		Total number of cross border disputes received	
Systematic or significant problem(s) occurring frequently	How can this be avoided or resolved in future		

<p>these problems could be avoided or resolved in future. (Your recommendation should be based on the objective of raising traders' standards and to facilitate the exchange of information and best practices).</p>		
	<p>For example, lack of awareness amongst traders of consumer rights in relation to rejection of goods under the new Consumer Rights Act 2015.</p>	<p>For example, need for greater awareness of free CTSI Business Companion advice guides on consumer rights amongst business groups.</p>
<p>Please tell us the total number of disputes which you have refused to deal with. In addition, a breakdown of the percentage share of each of the permitted grounds (see Annex B) on which you have declined to consider such disputes (if any).</p>	<p>Total number of disputes refused to deal with.</p>	
	<p>Grounds for dispute refused</p>	<p>Percentage of total</p>
	<p>For example; the dispute is frivolous or vexatious;</p>	<p>20%</p>

<p>Please tell us the percentage of ADR procedures which were discontinued for operational reasons and, if known, the reasons for the discontinuation; Operational reasons means, for example, issues with an ADR official and a conflict of interest. It does not include</p>	<p>Total number of discontinued ADR procedures for operational</p>	
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consumers and traders dropping out of the process nor when a consumer has lied to gain access to the process. These occurrences would be part of the numbers of 'refused to deal with' data.	reasons /Total number of ADR procedures initiated x 100	
	Operational reason	Number discontinued
Please tell the average time you take to resolve domestic disputes and cross-border disputes (See Appendix A for guidance on how to obtain the 'average time to resolve disputes' calculation).	Average time to resolve domestic disputes	
	Average time to resolve cross-border disputes	
Please tell us the percentage rate of compliance, if known, with the outcomes of the alternative dispute resolution procedure. (Please express compliance as a percentage relative to the number ADR procedures where an outcome has been achieved).	Percentage rate of compliance with ADR procedure outcomes	
Please tell us how you have co-operated, if at all, with any network of ADR entities which facilitates the resolution of cross-border disputes.	How we have co-operated with a network of ADR entities for cross border disputes.	

Appendix E – Two yearly activity report

Please submit this information in the form of an Excel spreadsheet in the format set out here, as far as possible. This will enable us to combine and compare information from a number of organisations. (Information in brackets is for guidance)

At the start of the report please indicate which ADR provider you are, the date of your report and the dates that the data relates to.

Please tell us the total number of disputes you have received as well as the types of complaints to which the disputes relate (Provide us with data using whatever categorisation system you use for 'types' of dispute. For example, you may have major and sub categories in relation to the 'types' of goods and services in dispute, such as; Electrical goods (Major), with televisions, laptops etc as sub-categories. You may also have multiple categorisations, for example, a goods & services category and also the legal 'type' of dispute, for example, not as described, not fit for purpose. In addition you may have no category system at all if you are very specialist or only deal with a very small number of disputes. If your categorisation system changes during the year let us know the information up to the change and afterwards explaining what has changed and how in a footnote).

Disputes type

Number received

Total number of disputes received

<p>Please tell us about any systematic or significant problems that occur frequently and lead to disputes between consumers and traders of which you have become aware due to your operations. In addition, tell us about any recommendations you may have as to how these problems could be avoided or resolved in future. (Your recommendation should be based on the objective of raising traders' standards and to facilitate the exchange of information and best practices).</p>	<p>Systematic or significant problem(s) occurring frequently</p>	<p>How can this problem be avoided or resolved in future</p>
	<p>For example, lack of awareness amongst traders of consumer rights in relation to rejection of goods under the new Consumer Rights Act 2015.</p>	<p>For example, need for greater awareness of free CTSI Business Companion advice guides on consumer rights amongst business groups.</p>
<p>Please tell us the percentage of ADR procedures that were discontinued before an outcome was reached. (Please take this to mean for operational reasons; Operational reasons means, for example, issues with an ADR official and a conflict of interest. It does not include consumers and traders dropping out of the process nor when a consumer has lied to gain access to the process. These occurrences would be part of the numbers of 'refused to deal with' data).</p>	<p>Total number of discontinued ADR procedures / Total number of ADR procedures initiated x 100</p>	
<p>Please tell the average time you take to resolve disputes you have received; (See Appendix A for guidance on how to obtain the 'average time to resolve disputes' calculation).</p>	<p>Average time to resolve disputes</p>	

<p>Please tell us the percentage rate of compliance, if known, with the outcomes of the alternative dispute resolution procedure. (Please express compliance as a percentage relative to the number ADR procedures where an outcome has been achieved).</p>	<p>Percentage rate of compliance with ADR procedure outcomes</p>	
<p>Where you are a member of a network of ADR entities which facilitates the resolution of cross-border disputes, please give us an assessment of the effectiveness of your co-operation in that network. Assessment of the effectiveness of your co-operation with cross border dispute ADR network</p>		
<p>If you provide training to your ADR officials, please give us details of that training. (No individual ADR official training record is needed. We are looking for the training provided overall to ADR officials. This would not include training provided on matters not specifically related to ADR work, for example, how to use Excel spreadsheets. If a course title does not obviously say what training has been provided, please provide a very brief explanation of the training).</p>	<p>Training provided to ADR officials</p>	<p>Brief explanation (where necessary)</p>
<p>Please tell us how effective your ADR procedure has been and what ways you can improve your performance in future.</p>	<p>Effectiveness of your ADR procedure. List of ways your ADR procedure performance can be improved in the future.</p>	

Appendix F Website information checklist

To meet approval requirements, the following information must be publicly available in a clear and easily understandable manner on your website. (Guidance on the information needed is included in brackets).

Your contact details, including postal address and email address

A statement that you are listed by CTSI as a certified ADR organisation (Only when you are advised by CTSI in writing that you have met the requirements and are a certified ADR provider).

Information about all of your ADR officials, their method and duration of appointment.

(The extent of the personal information you provide about each of your ADR officials is a choice for you to make. However, we would expect to see as a minimum job title and generic description of the role. Unless for reasons of staff safety or security even this was not possible. Method of appointment, is the basis on which the ADR official is employed, for example, self employed and contracted per dispute, as opposed to, for example, they were interviewed).

If you are a member of any networking organisation that assists with cross border disputes, give the name of that organisation.

The type of domestic disputes and cross-border disputes, which you are competent to deal with, including the financial thresholds, which apply, to each of these. (For guidance on 'Competency' and 'type' of dispute, see Appendix A).

The details of your ADR procedure.

The grounds, if any that you will refuse to deal with a dispute. (See Appendix B list)

The language(s) in which you are prepared to receive an initial complaint submission from a consumer.

The language(s) in which you are prepared to conduct your ADR procedure.

The principles you apply, and the main considerations you take into account, when seeking to resolve a dispute. (For example, legislation, considerations of equity, codes of conduct etc)

Any requirements the parties have to meet, before the ADR procedure can be initiated. (This does not include the requirement that the consumer must have attempted to contact the trader with a view to resolving the dispute).

A statement clarifying whether or not the parties can withdraw from the ADR procedure once it has been started.

The costs to the parties, if any, including the rules, if any, you have on awarding costs at the end of the ADR procedure.

The average length of the ADR procedure you follow. (See Appendix A for guidance on 'average length of ADR procedure' calculation. For the purposes of initial application, you may display data for the year up to the date when you submit your application to CTSI and then update the figure for your 'approval date. This will then fit into the annual reporting cycle data. Alternatively, the figure could be continually updated in real time, each time an outcome is reached. Good practice would be to clarify the basis on which any data presented is calculated.

The legal effect of the outcome of the ADR procedure, for example, is it binding on one or both of the parties or is it a suggested outcome for the parties etc. In addition the enforceability of the outcome and the penalty for non-compliance, if any.

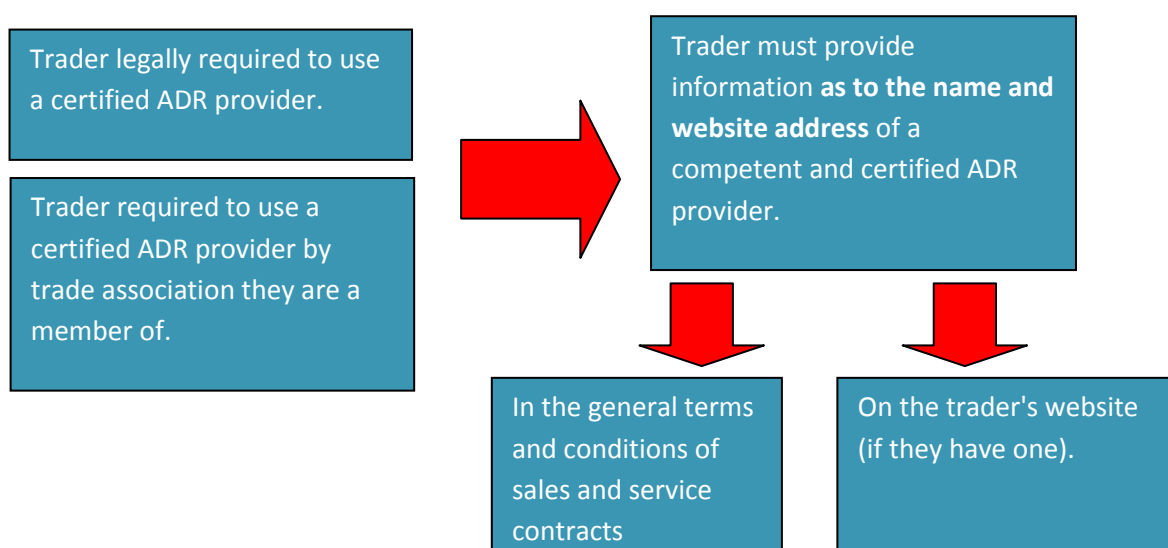
A statement as to whether or not the ADR procedures you operate, can be conducted by oral or written means (or both).

A copy of the annual activity report (see Appendix D) you are required to submit to CTSI. (Clearly such a report is not required to be on the website until the 1st anniversary of approval. The time limits for the submission of this report, would apply to the website publication date as well).

While not part of ADR certification, an understanding of the requirements that traders must comply with in relation to providing information about certified ADR providers, is useful in understanding what is and is not ADR. In addition, how certified bodies fit into the overall information requirement process. The information requirements are set out in Part 4 of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 (the regulations). There are two trader information requirements. The first is only for those traders who are either legally or via a trade association, required to use a certified ADR provider to resolve contractual disputes with consumers that they cannot resolve using internal complaint procedures (Trader information A). The second applies to all traders, including those caught by the first requirement, who have sales and service contracts with consumers (Trader information requirement B). Neither information requirement A or B apply to health service contracts.

Trader information requirement A

There is no detailed requirement in the regulations as to where the information must be given on the website by traders. If a trader does not have any general terms and conditions, for example, the nature of the types of contractual transactions they make involves no paperwork such as a receipt, then it follows that the information requirement will not apply. However, it may be a legal requirement elsewhere or a rule of a trade association, to give the information anyway and in a particular way, for example, a shop notice. There is no definition of trade association in the regulations, and so any trader who is a member of an organisation that can show it is not a trade association, does not have to provide the information (Unless legally required to).



Trader Information Requirement B

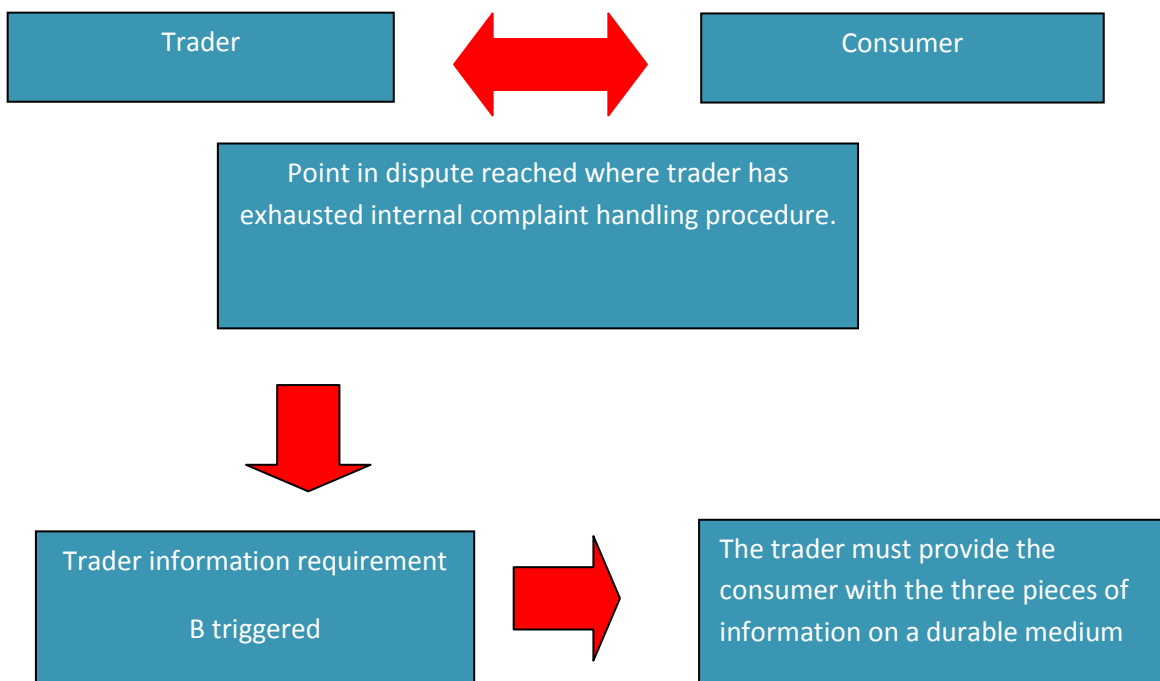
When a trader has exhausted their internal complaint handling procedure with respect to a sales or service contract dispute with a consumer, then trader information requirement B is triggered. Using a durable medium, the trader must tell the consumer three things;

- That they cannot settle the dispute.
- The name and website address of a suitably competent, certified ADR provider (if the consumer wants to use it)
- Whether they are required to, or are prepared to, take part in the ADR procedure of the competent certified ADR provider that they have given details of to the consumer

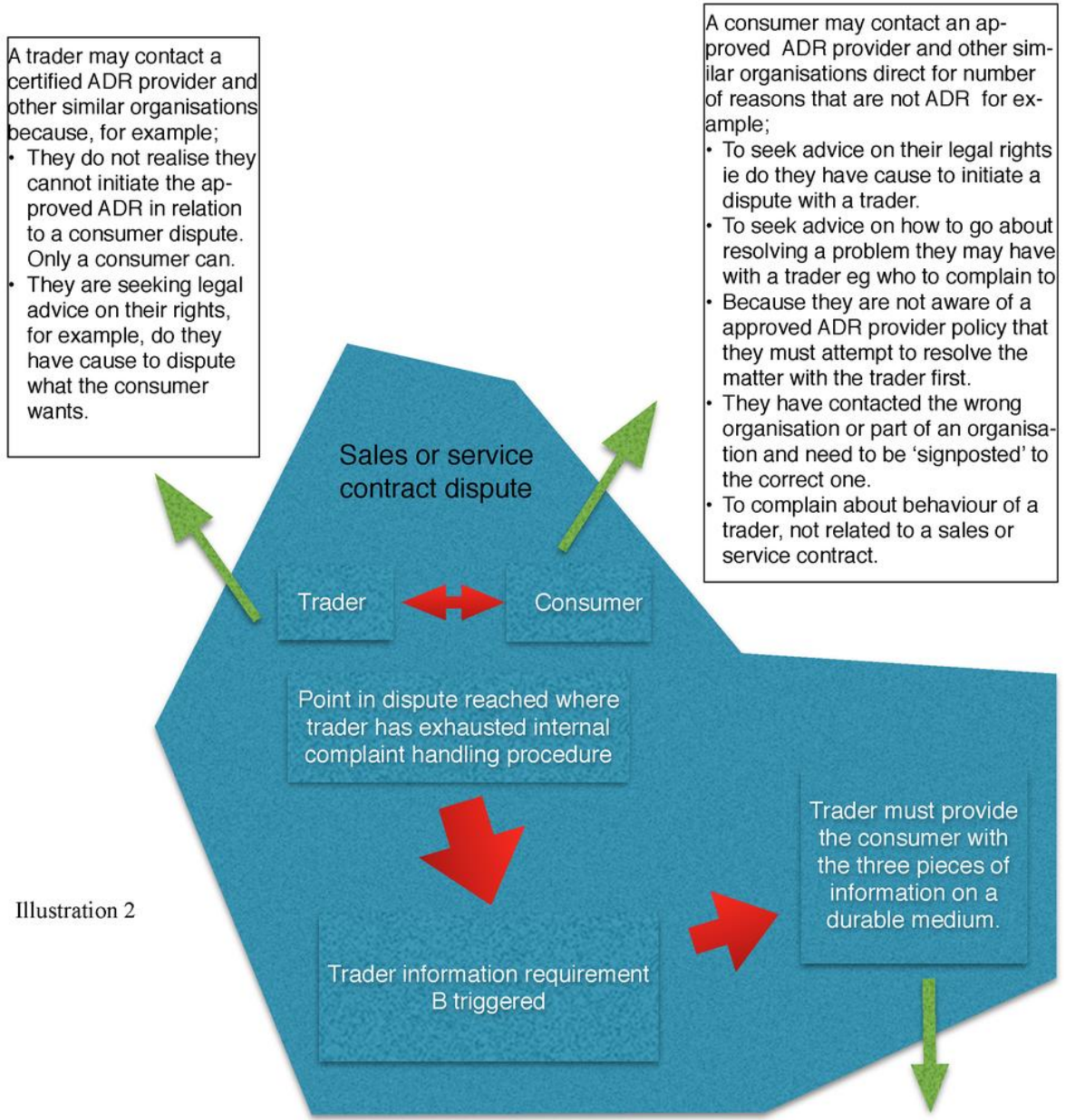
(See illustration 1 below)

Good practice would be to make it clear to the consumer that this is information they are required to provide under the regulations and to clearly distinguish it from any other information they may be providing at the same time. In addition, it would be good practice to provide the telephone contact number, for the competent certified ADR provider.

Illustration 1



However, contact with an Approved ADR provider may occur with consumers and traders for a number of reasons that are not as a result of the information requirement and are not as part of providing ADR. To show this, examples of such contacts are given in illustration 2 below.



A trader may contact a certified ADR provider and other similar organisations because, for example;

- They do not realise they cannot initiate the approved ADR in relation to a consumer dispute. Only a consumer can.
- They are seeking legal advice on their rights, for example, do they have cause to dispute what the consumer wants.

A consumer may contact an approved ADR provider and other similar organisations direct for number of reasons that are not ADR for example;

- To seek advice on their legal rights ie do they have cause to initiate a dispute with a trader.
- To seek advice on how to go about resolving a problem they may have with a trader eg who to complain to
- Because they are not aware of a approved ADR provider policy that they must attempt to resolve the matter with the trader first.
- They have contacted the wrong organisation or part of an organisation and need to be 'signposted' to the correct one.
- To complain about behaviour of a trader, not related to a sales or service contract.

Illustration 2

The consumer may contact a competent approved ADR provider to initiate the ADR procedure in relation to the dispute they have with the trader or take some other action or do nothing. (If a consumer can show they have attempted to contact the trader in relation to a dispute and the trader does not respond, despite a reasonable time being given to do so, the trader information requirement may be judged to have been triggered and so the consumer can contact the approved ADR body direct or having been advised to do so by the Citizens Advice ADR Helpdesk.