



ADR Rules & Procedure

The following document lays down the rules and procedure for the Kent ADR scheme. Where necessary specific documents are referred to and these are produced as annexes to the main document to aid comprehension.

Objectives

The overall objectives of the scheme are to provide:

1. Quick alternative dispute resolution for consumer disputes relating to goods and/or services.
2. Appropriate dispute resolution, utilising Trading Standards Professionals
3. Non-bureaucratic processes

Scope

The scheme will be open to use by all consumers in dispute with a subscribing business, subject to the following:-

1. The consumer has attempted to resolve the matter via the member's internal complaints procedure.
2. The complaint is not deemed to be frivolous or vexatious in nature.
3. The complaint has not already been considered by the courts or another certified ADR provider.
4. The value of the claim is not in excess of £40,000.
5. The complaint was referred to the scheme within 12 months of the trader indicating that they were unable or unwilling to resolve the matter¹.

Representation

Neither party to the dispute is 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.

Process

Initial referral

As part of subscribing to the scheme, once the business has exhausted their internal complaint procedures, they should communicate to the consumer this fact by electronic means or letter, explaining that an option open to them is to participate in this ADR scheme. This communication should enable the consumer to respond requesting ADR, should signpost them to the means of applying for ADR with the ADR Provider and will be in an agreed format with the ADR provider

¹ A condition of a member business is that the consumer will be notified of when the trader deems that they are unable or unwilling to resolve the matter.

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On receipt of a notification of an ADR application, the business and/or subscribing organisation will arrange, within 7 days, to upload all the evidence and correspondence collated as part of the internal complaint investigation, together with full details of the business, consumer and transaction in dispute. Included in this submission will be a declaration that the matter in dispute is currently in scope. A unique reference number will be allocated by the ADR provider and receipt of the referral sent by email or by letter if so requested by one or both parties.

ADR provider

The administrator will receive notification of the application from the consumer. Upon receipt, within 2 working days, the administrator will initiate contact (via the preferred means of communications outlined in the application) with both the business subject to the complaint and consumer.

This communication will welcome each to the ADR provider with links to the website to provide transparency concerning the scheme. In the event that either party elects for a non-electronic method of communication, hard copies of this information will be sent for this and all future communications. In this case, the case management of the ADR will still use the dedicated database for the scheme but the administrator will take an additional role of ensuring relevant information is posted to the trader and/or consumer.

Trader and consumer in dispute

“Co-ordinating” arrangement

In the event that the dispute is registered by a subscribing organisation who is a trade association or similar organisation (a “co-ordinating” subscribing organisation), the business and consumer in dispute will both be given copies of the material uploaded as part of the original submission by the subscribing organisation. Each will then be given 7 days to submit any further evidence that they wish to be considered as part of the ADR process. The consumer will also be invited to give details of the monetary redress he or she considers appropriate.

“Direct” arrangement

If the subscribing business is also the business in dispute (a “direct” subscribing business) the each party will be supplied with copies of the information supplied to the ADR provider and will then have 7 days to submit their own evidence using the on-line portal. The consumer will also, as part of their submission, be invited to give details of the monetary redress he or she considers appropriate. All evidence and commentary submitted will be shared with both parties. The parties will be required to confirm that they have nothing new to add.

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ADR

After the parties have confirmed that they have nothing new to add a notification will be sent to them confirming that the information will be referred to an ADR official for a decision to be reached. The ADR official will base their assessment and decision solely on the evidence before them in written form.

The administrator will review the case file to ensure that all relevant information is complete prior to sourcing an ADR official who is able to complete the review and decision making within the timescales. An official must be assigned within 2 working days and he or she will then be sent access information to allow him or her to review all evidence in the case.

The ADR official will complete the review, based on the written evidence available to them only, make a decision within 28 days of allocation and complete a summary of the decision form to upload onto the system. This will then generate a notification to the administrator and ADR manager.

Settlement

There is no appeal process but the consumer will be given 7 days to reflect on the adjudication and will be asked to confirm if they do not agree with the decision within 7 days. In this case, no payments will be made and the matter would then be for the courts, at the instigation of the consumer. In all other cases, payment in settlement should be made by the trader within 14 days of notification of the decision. It is the responsibility of the subscribing organisation to ensure payment is made if it is a condition of membership.

Timescales

In summary, the process can be divided into 3 stages:-

Stage 1 – Submission (7-14 days)

Initiation of complaint and start of submission process:

Parties in dispute to have 7 days to examine evidence from other party and add further evidence to support their case.

Parties review any new evidence and commentary and feed back if necessary.

Parties will confirm that they have nothing new to add.

Stage 2 – Once all evidence received, adjudication (28 days)

Allocation, consideration of evidence and decision making by ADR Official.

Stage 3 – Result (28 days)

Publishing of result – emailed to parties in dispute and co-ordinating business, if appropriate.

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7 days for consumer to reflect and reject

14 days for settlement

Definitions

“Subscribing organisation” – This is the business which is contracted with the ADR provider and agrees that they will participate and abide by the decision of the ADR Provider.

“ADR Provider” – Kent County Council, accredited by the Chartered Trading Standards Institute.

“ADR Administrator” – The person(s) employed by the ADR Provider to facilitate the ADR process and ensure all parties are informed of the ongoing process.

“ADR Manager” – The person with oversight and smooth running of the ADR process.

“ADR Official” – The person reviewing the case and making a decision based on the evidence before him or her – as detailed in a decision making summary.

“Business” – The business who has supplied the goods and/or services and is the party which the consumer is in dispute with (may also be the subscribing business).

“Consumer” – The person(s) in dispute with the business in respect of contracted work or goods and who has requested ADR via the ADR provider.

“Decision” – The final decision made by the ADR Official as a result of a review of the evidence submitted and communicated to interested parties.