



South Yorkshire Trading Standards Services

Alternative Dispute Resolution Scheme

Policy & Procedures





Alternative Dispute Resolution Scheme

ADR Rules & Procedure

The following document lays down the rules and procedure for the South Yorkshire Trading Standards Services' 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 business's internal complaints procedure.
2. The complaint is not deemed to be frivolous or vexatious in nature.
3. The complaint has not already been or is currently being considered by the courts or another certified ADR provider.
4. The value of the claim is between £100 and £50,000.
5. The complaint was referred to the scheme within 12 months of the business indicating that they were unable or unwilling to resolve the matter.

Process

Initial referral

Subscribing Business

As part of subscribing to the ADR 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 signpost them to the means of applying for ADR with the ADR Provider and will be in an agreed format with the ADR provider (**Appendix 1**)



ADR provider

The ADR Administrator will receive notification of the referral from the consumer.

Upon receipt, within 5 working days, the administrator will:

- Create a new ADR Stage 1 worksheet on the Database. If the consumer has previously had contact with the Consumer Advice Service any previous worksheets will be updated to show it is now in the ADR Scheme and finalised.
- Ensure all details on the worksheet are up to date.
- Initiate contact (via the preferred means of communications outlined in the application) with both the business subject to the complaint and consumer.

(Appendices 2a – 2d)

This communication will welcome each party to the ADR provider with links to the website to provide transparency concerning the scheme. Normally unless a party has indicated otherwise, all communication will be by email. In the event that either party elects for a non-electronic method of communication, hard copies will be sent for this and all future communications. In this case, the 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

The ADR provider will begin a two stage system of resolution as part of the ADR process. Upon receipt of the referral the ADR Manager will appoint an Case Officer (Mediation) to undertake the ADR function, beginning with Stage 1

Stage 1 - Mediation

The appointed Case Officer (Mediation) will:

- Make contact with both parties and establish the grounds for the dispute.
- Receive copies of any relevant documents that may be helpful in resolving the dispute.
- Make full notes of any verbal statements made regarding the dispute.
- Ensure all records are attached to the ADR Stage 1 worksheet.
- Discuss with each party their views of what would constitute a reasonable settlement.
- Advise on their understanding of any legal entitlement or liability.
- Negotiate in an attempt to bring the two parties together to an agreed settlement.
- Take advice from other Officers or Experts as necessary.



Both parties will be invited to submit evidence in respect of the case within 14 days. This should include all relevant information. Upon receipt of any evidence or the expiry of the 14 days the case file including any records of discussions with the parties will be reviewed by the Case Officer (Mediation). Each party to the dispute will be notified of any new evidence and be given the opportunity to view it, and comment if necessary. Thereafter the file will be deemed to be a “complete complaint file”.

The ADR official will complete the mediation and make a recommendation within 28 days of allocation.

Where this process brings an acceptable resolution the Case Officer (Mediation) shall give a written explanation of the result of their mediation to both parties. **(Appendices 3a & 3b)**

In the event that mediation does not obtain agreement then Stage 2 of the process will be engaged.

Stage 2 – Full ADR Adjudication

The ADR Worksheet will be changed to an ADR Stage 2 Worksheet.

The ADR Manager will nominate a Case Officer (Adjudication).

Both parties will be invited to submit any further evidence in respect of the case within 14 days. This should include any further relevant information not already submitted to the ADR provider under Stage 1. Upon receipt of any further evidence or the expiry of 14 days the case file will be reviewed by the Case Officer (Adjudication). Each party to the dispute will be notified of any new evidence and be given the opportunity to see it, and comment if necessary. Any further information provided will be added to the complaint file. **(Appendices 4a – 4d, & 5)**

The ADR official will complete the review and make a decision within 28 days of allocation and complete a summary of the decision form. The decision will be communicated to both parties and uploaded onto the database. **(Appendix 6)**

The ADR manager will audit a minimum of 10% of decisions to ensure that the correct process has been followed.

The only anticipated exception to this timescale is in the event that the Case Officer at either stage deems that a physical examination of the goods or service is necessary. It is anticipated that this will only be in exceptional circumstances, with most cases being resolved based on the written evidence submitted, but if this is the case, the ADR official will notify the administrator. Upon receipt of this, the administrator, in liaison with the manager, will assign a suitable person to arrange to examine the goods or service and report on the specific matters raised by the ADR official. This examination and report will be completed within 14 working days but will cause an extension to the overall time limit of 14 days. The consumer and trader in



dispute will be informed of this by email, or by their preferred means of communication.

Settlement

There is no appeal process but the consumer 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 working days of notification of the decision. It is the responsibility of the subscribing member to ensure payment is made if it is a condition of membership.

Timescales

In summary, the process can be divided into 2 stages:-

Stage 1 – Submission and mediation (28 days)

Stage 2 – Full ADR Adjudication (28 days, including 14 days for further evidence)

Either stage may be extended by 14 days in the event that an examination of the product or service is required.

Definitions

“Subscribing business” – This is the business which is a subscribing member of the South Yorkshire Motor Trade Business Partnership, Primary Authority Company or other trader who agrees that they will participate and abide by the decision of the ADR Provider.

“ADR Provider” – South Yorkshire Trading Standards Services, 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 responsible for the oversight and smooth running of the ADR process.

“ADR Official” or “Case Officer” – 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” or “Trader” – 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 trader in respect of contracted work or goods, who has requested ADR via the ADR provider.



“Decision” – The final decision made by either a Case Officer (Mediation) appointed to mediate a settlement at Stage 1) or a Case Officer (Adjudication) reviewing the case and making a decision based on the written evidence before them – as detailed in a decision making summary.)



South Yorkshire Trading Standards Services

Alternative Dispute Resolution Scheme

ADR Manager - specification and functions

The role of the ADR Manager is key to the effective function of the scheme. Failure for the ADR Manager to effectively oversee the scheme could undermine its integrity and reputation.

Specification

It is important that an ADR manager is trained and competent to deliver their functions under the scheme. The scheme requires that the manager is:

- a Chartered Trading Standards Practitioner (CTSP), or holds an equivalent qualification.
- currently undertaking CPPD under the CTSI scheme (a condition of CTSP status) or a similar CPPD scheme.
- experienced in dealing with consumer disputes concerning goods and/or services.
- experienced in management and auditing.

Functions

The key function of an ADR Manager of this scheme is to effectively oversee the running of the scheme, including ensuring the competency of staff and compliance with time limits for delivery.

Key functions within this include:

- Responsibility for the evaluation of ADR Officials' performance, including auditing a minimum of 10% of decisions to ensure the process has been followed. (The Audit is concerned solely with whether the correct process has been followed and does not include any consideration of the settlements reached.)
- Conducting appraisals of the ADR officials' and Administrators' performance.
- Recruitment, retention and release of ADR Officials.
- Sourcing external contractors to provide site visits if necessary.
- Budget monitoring.
- Ensuring adequate training provision to maintain competence.
- Producing performance reports for CTSI.
- Dealing with any complaints concerning the conduct of the scheme.
- Contract monitoring, particularly in relation to the website.



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ADR Official specification and functions

The role of the ADR Officials are key to the reputation of the scheme. Failure for the ADR Officials to effectively review the evidence and make an appropriate decision could undermine the scheme. Furthermore, failure to comply with the response time will also undermine the unique selling point of the scheme, namely a speedy resolution.

Specification

It is important that any ADR official is trained and competent to deliver their functions under the scheme.

The scheme requires that each official conducting Stage 1 Mediation (Case Officer (Mediation)):

- Is a Chartered Trading Standards Practitioner or other suitably trained and competent Trading Standards Professional.
- Is currently undertaking CPPD under the CTSI scheme (a condition of CTSP status) or a similar CPPD scheme agreed with the ADR Manager.
- Has completed training concerning the functions of the ADR scheme.
- Has experience in dealing with consumer disputes.
- Has the ability to review disputes, negotiate with individuals and businesses and make appropriate recommendations.

Each official conducting Stage 2 Adjudication (Case Officer (Adjudication)):

- Is a Chartered Trading Standards Practitioner or other suitably trained and competent Trading Standards Professional.
- Is currently undertaking CPPD under the CTSI scheme (a condition of CTSP status) or a similar CPPD scheme agreed with the ADR Manager.
- Has completed training concerning the functions of the ADR scheme.
- Has experience in dealing with consumer disputes.
- Has the ability to review disputes, examine evidence and make appropriate decisions.

Evidencing these requirements should be expected as part of recruitment, to include appropriate evidence of experience, qualifications and CPPD.



Functions – Stage 1

The key function of a Case Officer (Mediation) under this scheme would be to rapidly assimilate both written and verbal evidence presented to them as part of an ongoing dispute and through negotiation with both parties to attempt to find a practical solution which is acceptable to all. This solution may include a financial settlement or a practical solution or both.

Functions – Stage 2

The key function of a Case Officer (Adjudication) of this scheme would be to rapidly assimilate the written evidence presented before him or her as part of an ongoing dispute and make a decision based on fairness as to the resolution.

The scope of the Stage 2 scheme is to award financial redress to the consumer by way of settlement of the dispute. This can be up to the value of £50,000 in severe cases. The applicant to the scheme (the consumer) will, as part of the application, detail their monetary claim which the ADR official can agree with, increase, reduce or not uphold dependent on the evidential sufficiency.

In limited cases it may be that the Case Officer in either stage deems that the only way of making an effective decision is to get an independent assessment of the work carried out or examination of goods which are part of the contract. In this case the matter should be referred to the ADR Manager as soon as possible to ensure that the decision may not be delayed, although provision under the scheme is to extend the time limits by 14 working days to allow for an examination and report.

Normally, however, it is expected that a decision will be made without the need for an examination or assessment. The Case Officer (Adjudication) should document his or her decision using the appropriate form for the case within 28 working days of receiving the case.

Independence

It is essential that all ADR Officials are able to act independently and remain neutral. There are therefore key elements of the role which an ADR Official needs to be aware of and will be covered in induction training. For clarity, they are detailed below:

1. On accepting to act as a Case Officer in any case, the Official must confirm that they are not aware of the case or any individual involved in the dispute.
2. The ADR Official has a continuous obligation to keep their independence under review and if at any time they become aware of anything which may undermine independence that this is reported to the ADR Manager.
3. The ADR Officials will all be Trading Standards professionals or contracted staff, with the exception of the ADR Manager who will undertake an auditing role to ensure the system is being followed (but in no way affect the ADR Official's decision making).



Retention or release of ADR Officials

Once recruited, an ADR Official will be appointed to serve a minimum of 12 months, subject to a month's notice of termination on each side without penalty.

An ADR Official may be released from continuing their role in the following circumstances:

- Lapse of qualification and/or CPPD.
- Failing to attend training sessions or maintain training logs.
- Failure to make appropriate decisions, revealed via auditing by the ADR Manager.
- In a specific case, when a potential conflict of interest has been identified by the ADR Official or anyone else.
- Unprofessional conduct, including, but not limited to, breach of confidentiality or data disclosure.



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ADR Administrator specification and functions

The role of the ADR administrator is to ensure the smooth operation of the scheme. Failure in the ADR administrator to effectively support the scheme could undermine the reputation and therefore the use of the scheme.

Specification

It is important that an ADR administrator is trained and competent to deliver the key support functions under the scheme. The scheme requires that an administrator:

- Is organised and computer literate.
- Is familiar with the ADR process.
- Has excellent communication skills, both verbal and written.

Evidencing these requirements should be expected as part of recruitment, to include appropriate evidence of experience, qualifications, etc.

Functions

The key function of an ADR Administrator of this scheme is to effectively co-ordinate the running of the practical elements of the scheme.

Key functions within this include:

- Providing front-line support to enquirers, subscribing businesses and ADR Officials.
- Ensuring communications are maintained with parties in dispute within agreed timescales.
- Raise performance reports for the ADR Manager to consider.
- Administer the payment of invoices, expenses and issuing of invoices.
- Retention of documentation, either electronic or hard copy, to evidence the operation of the scheme.
- Assisting the ADR Manager in budget monitoring.
- Assist the ADR Manager in the case of any complaint.