



COMMSADR SCHEME RULES

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INTRODUCTION

Consumer Dispute Resolution Limited (CDRL) is an independent, not-for-profit, non-statutory organisation that is authorised by Chartered Trading Standards Institute, the Civil Aviation Authority and Ofcom, pursuant to The Alternative Dispute Resolution for Consumer Disputes (Competent Authority and Information) Regulations 2015. CommsADR is operated by CDRL.

The CommsADR scheme ("**the Scheme**") is designed to reach a resolution of unresolved disputes in full and final settlement. It provides consumers with independent redress of complaints relating to acts or omissions of Traders in relation to consumers' rights when they use the services of a Trader.

For the purposes of the Scheme Rules:

"**Trader**" shall mean a company which has agreed to be a member of the Scheme.

"**Consumer**" shall mean an individual who is the purchaser, and/or the recipient of goods and/or services provided by a Trader under a consumer contract.

The main purpose of the Scheme is:

- a. The receipt and handling of unresolved disputes that fall within jurisdiction as defined within these Scheme Rules ("**Complaints**") in relation to a Trader;
- b. The resolution, settlement and/or withdrawal of Complaints or disputes between a Trader and a Consumer;
- c. Where appropriate, to administer remedies and provide redress in relation to Complaints between a Trader and a Consumer;
- d. Where appropriate, to make recommendations to a Trader about its policies, procedures or the provision of its services.

Integrity and Independence

Our independent status is at the heart of everything we do, as is our commitment to openness, honesty and integrity and we recognise the importance of this to everyone that relies upon our services.

CDRL Board of Directions ("Board")

To help preserve our independence and provide an invaluable set of checks and balances on our work, the Board acts to regulate how we operate. All Board members share our vision of inspiring consumer confidence and raising industry standards and do so on a voluntary basis. The Board consists of i) executive board members (i.e. who work at CDRL as part of the management team), non-executive board members, and independent non-executive board members (i.e. who are independent of CDRL and sit on the Board on an independent and impartial basis).

Governed by a set of internal by-laws, the Board regularly reviews a cross section of our determinations, to ensure they are both fair and reasonable. It also oversees our rules, practices and procedures.

THE RULES

1. **Complaints we can deal with ('complaints in-scope')**

1.1. We can only deal with complaints where the following criteria is satisfied:

- 1.1.1. The Trader subscribers to work with the Schemes, an up-to-date list can be found at cdrl.org.uk (“**Subscribing Member**”); and
- 1.1.2. Where either i) the Consumer has filed a complaint with the Trader and has not received a Deadlock Letter within eight weeks or ii) has received a Deadlock Letter where the outcome is a rejection of the complaint.

‘**Deadlock Letter**’ is a response from the Subscribing Member to the Consumer (or their representative) where the Trader either i) rejects the complaint or ii) does not indicate clearly that there is the potential for further consideration of the complaint.

Products/services ‘regulated’ by the Phone-paid Services Authority

Premium Rate Services	Quizzes and Competitions	Subscription Services
Video on Demand Services	Pay-TV	Chat Lines
Adult Services	Mobile Apps	Charity Donations
Voting (TV and Web)	Gambling (Via Mobile Phone or App)	Directory Enquiries (118 numbers)

We can deal with the following ‘non-regulated’ complaints

Mobile handsets	Broadband routers	Cable and satellite television (faulty equipment)
The location of telegraph poles	The location of mobile phone masts	Cable and wiring inside your property
Courier and postal services	Non-micro business billing disputes	Commercial decisions made by communications companies about whether to provide a product or service, and the terms under which they may be provided

We cannot deal with

PAY-TV	Problems which are already being dealt with by the courts or other complaints procedures	Dial up internet
Wi-Fi services	Billing and customer service disputes for domestic and micro-business broadband internet including mobile broadband (dongle)	Billing and customer service disputes for domestic and micro-business landline (fixed line) telephones
Billing and customer service disputes for domestic and micro-business mobile		

phones and smartphones (contract and pre-paid)		
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1.2. The Scheme cannot be used to settle disputes which fall into one or more of the following categories:

- 1.2.1. Claims brought by someone who does not fall within the definition of a Consumer (as defined above under 'Introduction');
- 1.2.2. The dispute is frivolous and/or vexatious;
- 1.2.3. The subject matter of the dispute is the same as an existing or previous valid application made to the Scheme by the Consumer about the same Complaint;
- 1.2.4. The dispute has been or is the subject of court proceedings or an alternative procedure for the determination of disputes (unless such court proceedings or alternative procedure has been abandoned, stayed or suspended);
- 1.2.5. Disputes where the Consumer is claiming a total sum of money which exceeds £25,000;
- 1.2.6. The Consumer brought the claim to the Scheme at least 12 months from the date upon which the Trader gave notice to the Consumer that the Trader was unable to resolve the Complaint (or, where no notice is given, at least 12 months since the Consumer's last attempt to contact the Trader); and/or
- 1.2.7. Where dealing with such a type of dispute would seriously impair the effective operation of CommsADR.

NOTE: Lodging a Complaint with the Scheme does not remove the Consumer's duty to pay the Trader any other amounts which are due and which are not disputed.

2. How to file a complaint

2.1. There are three ways to file a complaint with the Scheme;

By post – where the Consumer does not have access to the internet: telephone 0203 540 8063 and ask one of our team members to post a complaint form. Completed forms should be sent to: CommsADR, 12 Walker Avenue, Stratford Office Village, Milton Keynes MK12 5TW. Alternatively, forms are also available to download via our website www.cdri.org.uk/comms-adr/.

Online – complaints can be lodged via CommsADR's online portal. To access this simply go to the home page of the CommsADR website and select 'start your complaint' button.

By telephone – telephone 0203 540 8063 and speak to the CommsADR initial assessment team.

2.2. After lodging a complaint online, Consumers are taken to their own personal portal page. This page provides live information about the claim and the parties are encouraged to check the progress of the complaint regularly.

2.3. If a Consumer requests their Complaint to be managed offline by post, all updates will be provided by letter.

3. Information and Evidence

- 3.1. Consumers must submit all relevant information and evidence in support of their complaint at the point of filing the complaint with CommsADR.
- 3.2. Traders must submit all relevant information and evidence, in support of their defence of the complaint, within 28 days of being notified of the complaint.
- 3.3. Neither party will be permitted, without the express permission of CommsADR, to submit further information or evidence after a Complete Complaint File has been announced.
- 3.4. The Adjudicator may obtain and rely upon independent evidence, such as terms and conditions which may be located on the Traders website.

4. The Complaints process

4.1. Complaints go through a four-step process as follows:



Step 1 (Initial Assessment)

4.2. The complaint is reviewed and a decision made if the complaint falls within scope, in accordance with 1.1. of the Scheme Rules

4.3. In the event that a complaint cannot be accepted, the Consumer will be notified of this within three weeks.

Step 2

4.4. The complaint is passed to the Trader, which then has up to 28 days to confirm that it either wishes to defend or settle the complaint.

4.5. If the Trader agrees to settle the complaint, the Trader has 28 days to implement the agreed remedy (such as pay compensation).

4.6. If the Trader elects to defend the complaint, the Consumer will be given 7 calendar days to provide any comment on the defence, if the defence raises any new information or evidence that was not provided in the Deadlock Letter ("**Final Comments**"). Subsequently, if the Consumer submits Final Comments the Trader will also be granted 7 days to produce Final Comments.

Step 3

4.7. Following the Final Comments, CommsADR will notify the parties that it has a 'Complete Complaint File'. From this stage, no further information or evidence may be submitted by either party, unless the Chief Adjudicator of CommsADR authorises such submission.

Step 4

4.8. At this stage, the complaint is dealt with by the Adjudicator's Office where a Determination is made in writing. Determinations are produced within 90 calendar days of the Complete Complaint File. If the complaint is highly complex, CommsADR may extend the 90 day period, but must advise both parties of the additional time needed to make the Determination.

5. Court Cases

- 5.1. In the event that CommsADR becomes aware of a case (or cases) progressing through the UK Courts, which may affect the outcome of an ADR decision; and
- 5.2. The Consumer(s) affected will be advised and given the option to proceed with the ADR process, or place their case on hold pending the outcome of the court case(s) ("**On-Hold Event**").

6. Rights to withdraw from the complaints procedure

6.1. Consumers have the right to withdraw from the complaints process at any stage and to bring a claim to court, by providing notice of withdrawal in writing to CommsADR.

6.2. Subscribing Members **do not** have the right to withdraw the complaints process.

6.3. Consumers should note that court proceedings may result in a different outcome to the ADR process.

7. CommsADR's powers

7.1. All CommsADR Subscribing Members are bound by the final determination of the adjudicator.

7.2. Under our powers we can direct the Subscribing Member to:

7.2.1. Issue an apology;

7.2.2. Refund monies;

7.2.3. Take some practical action; and/or

7.2.4. Make a payment which must total no more than £25,000 (including VAT). This sum includes any claims for compensation, refunds, credits and/or waivers.

8. Determinations and awards

- 8.1. The Adjudicator will base his or her decision on i) the facts and supporting documentation available, ii) the applicable law/regulations and iii) what is fair and reasonable in the circumstances ("**the Determination**").
- 8.2. Where the Consumer agrees, the Determination becomes binding upon the Trader.
- 8.3. The Determination is not binding upon the Consumer unless it agrees to accept the decision. Consumers will be given 7 calendar days to consider and confirm whether they accept the Determination. If the Consumer fails to confirm its acceptance, it will be deemed to have rejected the decision.
- 8.4. Interest will not be added to monetary awards.
- 8.5. Subscribing Members must make compensation payments within 30 days of the Determination.
- 8.6. Subscribing Members agree to accept a £100.00 fine for failing to comply with the Scheme Rules (including refusal to follow an Adjudicator's Determination) unless the Subscribing Member has a fair and reasonable explanation for such breach.

9. General provisions

Records

9.1. Records will be maintained of all discussions which take place between CommsADR and the Consumer or the Trader. All communications and documentation may be shared with both parties.

Conflict of interest

9.2. CommsADR operates a strict conflict of interest policy which can be seen at Appendix 1.

9.3. If, after consideration of the Consumer's complaint has commenced, it is discovered that the ADR official handling the Consumer's complaint has a conflict of interest, the case will be immediately moved to another ADR official within CommsADR or, if more appropriate, CommsADR will cease handling the complaint. In the latter case, CommsADR will assist the Consumer in transferring their complaint to another ADR entity and pay any fee payable by the Consumer for doing so. If another ADR entity cannot accept the complaint, (or there is not another ADR entity), CommsADR will only continue handling the complaint with the consent of the Trader and the Consumer.

Subscribing Member withdrawal from the Scheme

9.4. In the event that i) CommsADR expels a Subscribing Member from the Scheme or ii) a Subscribing Member withdraws from the Scheme (in both cases '**the Cessation Date**'), all complaints filed with CommsADR prior to and up to the Cessation Date, will be completed through to Determination and the Trader will remain fully bound by the Scheme Rules, including in relation to payment of awards.

Confidentiality

9.5. Consumers will not be bound by any confidentiality restrictions regarding their experience of the Scheme.

Reasonable adjustments

9.6. Complaints will be dealt with in writing, in the language used by the Consumer when entering into a contract with the Trader. CommsADR operates a strict Reasonable Adjustments policy which can be located at Appendix 2.

Complaining about CommsADR

9.7. Consumers can file service complaints about CommsADR by following the Service Complaint Policy, set out at Appendix 3.

CONFLICT OF INTEREST POLICY

(as at 1 May 2016)

Key

ISB: Independent Standards Board of CDRL

Chief Executive: Dean Dunham or anyone holding such title

Line Manager: Your immediate supervisor

This Conflict of Interest Policy applies to:

- All personnel involved in the ADR process (including complaint handlers and adjudicators)
- The Chief Executive
- All members of the management team of CommsADR
- All members of the ISB
- Any contractor employed by CommsADR

(“**Applicable Persons**”)

Purpose

All Applicable Persons will strive to avoid any conflict of interest between the interests of CommsADR, complainants and airlines on the one hand, and personal, professional and business interests on the other. This includes avoiding actual conflicts of interest as well as the perception of conflicts of interest.

The purposes of this policy is to protect the integrity, impartiality and independence of CommsADR’s decision-making process and the ADR process, to enable our stakeholders to have confidence in our integrity, impartiality and independence and to protect the integrity and reputation of all those involved in CommsADR.

What is a conflict of interest?

A conflict of interest will arise in the following circumstances:

1. An Applicable Person is related to or personally knows a complainant (ie: the consumer) or related to or personally knows a key decision maker from an airline – in relation to an ongoing complaint subject of the ADR process;
2. An Applicable Person worked for an airline within the last 12 months that is a member of the CommsADR scheme;
3. An Applicable Person holds shares in any business in the aviation sector;
4. An Applicable Person has raised a grievance/complaint against an airline that is subject to our ADR process in the past 24 months;

5. An Applicable Person has submitted an application for employment to an airline, in the last 12 months, that is subject to the ADR process; or 6 Any other matter that would affect the independence or impartiality of CommsADR.

The above is not an exhaustive list of circumstances that will give rise to a conflict of interest but instead illustrations.

Disclosure of Interests

Upon appointment and on an ongoing basis, all Applicable Persons will, without undue delay, make a full written disclosure of any circumstance that may, or may be seen to—

- (i) affect the ADR official's independence or impartiality; or
- (ii) give rise to a conflict of interest with a party to the dispute which the ADR official is asked to resolve.

Procedure following conflict of interest

In the event that an Applicable Person has a conflict of interest:

(a) where possible, the ADR official shall be replaced by another ADR official to handle the particular dispute;

(b) if the ADR official cannot be replaced by another ADR official—

(i) the ADR official shall refrain from conducting the alternative dispute resolution procedure, and

(ii) CommsADR shall, where possible, propose to the parties that they submit the dispute to another ADR entity which is competent to deal with it;

(c) if the dispute cannot be transferred to another ADR entity, CommsADR—

(i) will inform the parties to the dispute of the circumstances of the conflict of interest,

(ii) will inform the parties to the dispute that they have the right to object to the conflicted person continuing to handle the dispute, and

(iii) will only continue to deal with the dispute if no party to the dispute objects. This policy is meant to supplement good judgement and staff, volunteers and management committee members should respect its spirit as well as its wording.



REASONABLE ADJUSTMENT POLICY

CommsADR is committed to ensuring that people with disabilities are not disadvantaged when accessing its service. To this end, where a disabled person would be at a substantial disadvantage in comparison with persons who are not disabled, we are willing to make reasonable adjustments.

What is a Reasonable Adjustment?

The Equality Act 2010 does not define what is 'reasonable', but guidance from the Equality and Human Rights Commission suggests that the most relevant factors are:

- The effectiveness of the adjustment(s) in preventing or reducing the disadvantage for the disabled person
- The practicality of us making the adjustments
- The availability of our resources including external assistance and finance; and
- Any disruption to the service that making the adjustment may cause.

Effectiveness

The adjustment should be designed to fully address the disadvantage it is meant to overcome.

Practicality

For example, it may not be possible for us to provide additional time to customers if there are legislative deadlines to meet.

Resources

For an adjustment to be reasonable, it should be effective. However, it is important to remember that is an adjustment which is deemed effective, may not be considered reasonable. For example, resourcing is not just about the cost, but it may involve other factors for example recruiting additional staff with specific skills. If an adjustment costs a significant amount, it is more likely to be reasonable to make the adjustment in instances where the organisation has substantial financial resources.

The reasonableness of an adjustment will be evaluated against the resource available to our service. In changing policies, criteria or practices we are not required to change the basic nature of the service we offer.

Reasonable Adjustments We Can Offer

We have set out below a non-exhaustive list of the reasonable adjustments that we are able to offer dependent on the nature of the disability and the individuals' needs. Please note, in order to verify the request for reasonable adjustments, we will require evidence to substantiate that the request falls under the Equality Act 2010.

1. Generally, case updates are provided via our online Dashboard portal. However, as a reasonable adjustment, an administrator can telephone to inform you of any online notifications as the case progresses. The administrator will be unable to provide advice or clarification on the Defence or offer any further explanation on the contents of the Defence if the Defence is not understood. This is to prevent the Defence being misinterpreted and/or misconstrued. In respect of any supporting documents, these often contain copies of brochure pages, correspondence and booking contracts/terms and conditions. Due to the complexity of these documents, it would not be practical or reasonable to read them over the telephone. The administrator will supply the Defence and supporting documents, where appropriate, to you by post.
2. Generally, claimants have a period of 7 days to review the Defence and any supporting evidence. However, as a reasonable adjustment, we can allow you a further period of 14 days to read the Defence from when it is received.
3. The administrator will take a note of any comments that you have to make on the Defence by telephone and recite these back to you for your approval. The note taken by the administrator shall stand as your final comments.
4. During any telephone calls, CommsADR's administrators can only advise you on procedural matters. If necessary, advice should be sought from a solicitor or Citizens Advice Bureau.



SERVICE COMPLAINTS POLICY

We have very high standards in relation to the service we provide and strive to ensure that these standards are always maintained.

Naturally there will always be a party, in every dispute we process, who will be unhappy with the outcome of the Determination. In most of these cases, we will have processed the case within specified timelines, following all correct procedures, in a fair and reasonable manner, and the outcome will be in accordance with i) the applicable laws/regulations ii) the evidence we have received from the parties and iii) what is fair and reasonable in the circumstances. However, if you feel that this is not the case, you have the right to raise a service complaint with us.

Please note, there is no right of appeal in relation to final determinations, and this process relates to the way in which we handled your case.

What you can complain about

We are able to consider complaints which fall into one or more of the following categories:

Complaint	Example
Start of the process	
You were unable to lodge your claim with us or found it very difficult to do so	You found that our online complaints portal was difficult to use, or something went wrong when you lodged your claim
We rejected your claim and stated that it was out of scope and you believe that this was wrong and therefore not in accordance with the Scheme Rules	We rejected your complaint on the basis that you had not complained to the Trader first (as required by the Scheme Rules). However, you did complain to the Trader first but did not get a response and more than eight weeks has passed since you filed your complaint with them
During the process	
We did not follow the process set out within the Scheme Rules	We only allowed you 3 days to respond when the Scheme Rules provide you have 14 days
Our staff	
Your complaint handler or another member of our team was rude or generally unhelpful	One of our team members was rude during a phone call, or within an electronic communication, or failed to assist you
Timing	
We have taken more than 90 days, from the date we informed you that we had a 'Complete Complaint File' to finalise your claim	We notified you that we had a complete complaint file on 1 February but did not send you the final determination until 1 June
The outcome	
We failed to take account (when finalising the determination) of all information and evidence that you uploaded to the portal or sent to us	We determined that you were not entitled to be reimbursed expenses due to a lack of evidence, but in fact you had provided us with receipts

We took account of information that we should not have taken account of	
We applied the facts incorrectly	
We applied an irrational interpretation of the law/regulations	

What you cannot complain about

We cannot consider complaints that fall into one or more of the following categories:

Complaint
You are unhappy with the determination (save for in any of the circumstances set out in the table showing complaints we can deal with)
The Trader has failed to fulfil your award on time

How to file your service complaint and the process

Eligibility

To be eligible to file a service complaint:

- a. Your complaint must be a Complaint that we can deal with (as set out in the tables above);
- b. Your case with us must now be closed (unless your complaint is that we have gone over 90 days and you still do not have a final determination; and
- c. You must file your complaint within **2 (two)** months of the date the final determination was issued.

The process

If you are eligible to file a service complaint, you can either file your complaint online <https://service-complaint.cdri.org.uk/open.php> or post it to us at CommsADR, 12 Walker Avenue, Wolverton Mill, Milton Keynes MK12 5TW.

We will provide a response to your service complaint within 30 calendar days.

Potential outcomes of your service complaint

In most cases where the service complaint is valid, we will i) explain what went wrong and why ii) issue an apology iii) take corrective action (such as amend a determination), if appropriate, and iv) make sure that we learn from the error to help continue to improve the service that we provide.