

## **YOUR REQUIREMENT TO PROVIDE CONSUMERS WITH INFORMATION ABOUT AN ALTERNATIVE DISPUTE RESOLUTION BODY**

### **Background**

In 2015, government regulations were published which required traders to provide information to consumers about the availability of Alternative Dispute Resolution (ADR).

CILEx members, CILEx practitioners and CILEx Authorised Entities were required to comply with the ADR regulations from the 1 October 2015.

### **What are your obligations?**

You have an obligation to provide information about your first-tier complaints procedure to consumers at the outset of a matter as follows:

#### **For Chartered Legal Executives/CILEx Practitioners/CILEx Authorised Entities**

You must provide information about the Legal Ombudsman as the provider of the statutory complaints scheme for service complaints and CILEx Regulation for any conduct related complaints.

#### **For Other CILEx Members (without Chartered Legal Executive status)**

You must provide information about CILEx Regulation as the provider of a complaints scheme for both service complaints and conduct related complaints.

#### **For Chartered Legal Executives/CILEx Practitioners/CILEx Authorised Entities/CILEx Members (without Chartered Legal Executive status)**

You must inform the consumer:

- of the name and website address of an ADR approved body, which would be competent to deal with the complaint, should both parties wish to use the scheme; and
- whether you intend to use that ADR approved body.

A list of [approved ADR bodies](#) can be found on the European Commission website. You should identify the most appropriate provider for you, as this list may change as new approved providers are added.

You should note that, although you are required to provide information about an ADR approved body, they are not required to submit complaints to the body. The obligation in the government regulations is to give information (only) and not to agree to the use of the approved ADR.

## What wording could I use?

The following suggested wording would be acceptable to add to your current client care information and compliant handling procedures. This should be inserted after the conclusion of your first-tier complaint handling process.

'Alternative dispute resolution bodies (such as *[include one from the list on the [European Commission website](#), with their contact details]*) exist which are competent to deal with complaints about legal services should both you and our firm wish to use such a scheme.

We *[state whether you do or do not]* agree to use *[include name of scheme]* (and the timescale for contacting them is twelve months).'

The list of ADR bodies may be subject to change.

## How does that affect my existing obligations?

The obligation in the regulations is only to signpost an approved ADR and not to agree to the use of the approved ADR.

The requirements in relation to the Legal Ombudsman, if appropriate to your circumstances as outlined above, remain unchanged. Under the CILEx Code of Conduct, CILEx members, CILEx practitioners and CILEx Authorised Entities are obliged not only to give information but to actively co-operate with the Legal Ombudsman.

You should be aware that the time limit for clients to get in touch with an ADR approved body is twelve months, which is different to the time limit for contacting the Legal Ombudsman which is currently six months. These timescales will run concurrently.

Failure to put forward an ADR option to consumers would amount to a breach of the ADR regulations.

## For 'online traders'

If you are an online trader, you must provide additional information to clients.

The requirements stem from the EU Regulation on Consumer Online Dispute Resolution (ODR). The European Commission has established an [ODR platform](#) that allows consumers who have a complaint about a product or service bought online to submit the complaint to a trader based in another EU member state.

An online trader is defined as, 'a trader who intends to enter into online sales contracts or online service contracts with consumers'. This may mean these regulations will apply to your firm or entity, even if you would not ordinarily consider yourself to be an online trader. The Department for Business, Innovation and Skills (BIS) has confirmed that this is likely to include legal practitioners who send and receive contracts, customer-care information, etc to clients via email.

Those who are included as 'online traders' will be required to provide the following on their websites:

- a link to the ODR platform (<http://ec.europa.eu/odr>); and
- the email address of the online trader

Additional requirements exist for online marketplaces.

The Department for Business, Energy and Industrial Strategy (BEIS) has confirmed that you are not required to provide this information if you fit the definition of an online trader but do not have a website. However online traders will be required to provide this information, even if they do not market goods or services in other EU member states.

### **Further information**

If you are uncertain about the current requirements, then please visit the [European Commission](#) website.