Confusion, gaps, and overlaps

A consumer perspective on alternative dispute resolution between consumers and businesses

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Foreword

Through the Citizens Advice Consumer Service we advised on more than 400,000 consumer complaints over the past 12 months. The complaints we see vary from defective second-hand cars to substandard service from an energy provider. Alternative Dispute Resolution (ADR) can offer an inexpensive and effective solution to individual consumer disputes, as an alternative to courts. For many consumers, non-court-based schemes may be the only realistic option to resolve these disputes.

Yet while some ADR mechanisms work well, previous Citizens Advice research on Complaints Handling suggests that many consumers have limited or no options for redress. The overall ADR landscape is patchy, with gaps, weaknesses and overlaps in coverage. This varied landscape leads to inconsistent results for consumers. In some cases, gaps make it hard for consumers to act on their statutory rights to redress.

We wanted to explore this idea further, to get an in-depth understanding of ADR provision across consumer markets. To do this we commissioned Queen Margaret University's Consumer Dispute Resolution Centre and the University of Westminster to compare the performance of ADR schemes across a wide range of consumer markets. We asked, do ADR schemes meet consumer expectations and deliver the best customer outcomes? This report is timely - in a forthcoming Consumer Green Paper, the government has an opportunity to address some of the inadequacies of ADR provision and consumer redress more generally.

The recommendations set out in this report bring together the academic expertise of the research team with Citizens Advice's consumer knowledge. By building a picture of the UK's current ADR landscape, its problems and its gaps, the research has led us to solutions for improving the use and outcomes of ADR for consumers. They set out how we can achieve a simpler, clearer and more accessible ADR landscape.

We would like to thank Queen Margaret University and the University of Westminster for their work on this research. We hope this report informs the ongoing development of dispute resolution in consumer markets.

James Plunkett - Director of Policy & Advocacy, Citizens Advice

Summary

This report is about the help available to consumers who have experienced a problem with a business that they have been unable to resolve on their own. Some of these problems end up in the small claims courts, but increasingly consumers can turn to Alternative Dispute Resolution (ADR) schemes. This report is about the UK's current approach to ADR.

The report does 3 things. It provides an up-to-date map of ADR schemes available to consumers in the UK. It presents a detailed comparative assessment of a small selection of these schemes. And it sets out consumer insights drawn from interviews with consumers who have used ADR. The research presented in this report involved desk-based internet research, interviews with ADR schemes, and interviews with consumers.

The report comes at a crucial time. There have been longstanding criticisms of ADR provision for consumers and there is wide consensus that the system is incoherent and confusing. The current government has an opportunity to address some of these criticisms in a forthcoming Consumer Green Paper.

This is, therefore, an opportune time to be thinking about how to ensure that ADR meets consumers' needs and serves their interests.

Our conclusions

Three core messages arise from the research.

The ADR landscape is confusing for consumers. There are now more ADR schemes than ever. While this is not a problem in itself and has improved coverage, it has further added to the complexity facing consumers. And there remain significant gaps and overlaps. Where there are gaps, consumers are left without remedy. Where there are overlaps, consumers are left confused. The wide variety of ADR processes and inconsistent terminology are also a source of confusion.

The current ADR landscape is not designed with consumers' needs in mind. Except where ADR is mandatory, businesses have the power both to decide whether to take part in ADR and, if so, which ADR scheme to use. In some sectors, multiple ADR schemes compete with each other. The result is that consumers' needs are not being met. Often consumers do not know where to

complain.

Improving ADR provision is hampered by a lack of good quality data. Simply describing the UK's ADR landscape is a complex task. Information is not readily available and there is significant variation between ADR schemes in terms of transparency. Lack of good quality comparative data makes tackling the shortfalls in ADR provision more difficult. It also means that feedback loops that might improve business practice are less likely to be present. Overall, it means that ensuring consumer needs are met is difficult to assess and assure.

Recommendations

To address the areas for improvement identified in this report, we make 6 recommendations.

Recommendation 1: mandatory ADR should be extended across all consumer sectors

Significant gaps continue to exist where businesses choose not to sign up to an ADR scheme. The government should adopt the principle that participation in ADR should be mandatory across all consumer sectors, regardless of the sector involved or the value of the claims consumers are making. This should be monitored and reviewed if credible evidence emerges that the system is being abused. There are certain areas that may require special attention in relation to this recommendation including the private rented sector and consumer-to-consumer transactions.

Recommendation 2: in regulated sectors, ADR should be limited to 1 provider in each sector.

In regulated sectors, it is particularly important that the different actors (regulator, consumer advocate and ombudsman) work closely together. Therefore we recommend that there should be only 1 ADR provider per sector.

The potential benefits of competition in terms of raising standards can be maintained, for example by regularly inviting tenders for the contract to provide the ADR scheme.

Recommendation 3: in non-regulated sectors, BEIS should take steps to make the ADR landscape easier for consumers to navigate.

This can be done in a way that tackles gaps and overlaps in the ADR landscape at the same time as preserving standard-raising competition.

In non-regulated areas, should ADR become mandatory, we recommend that the Department for Business, Energy and Industrial Strategy (BEIS) work with industries and key stakeholders to make ADR more user-friendly. BEIS should consider whether having 1 ADR provider per sector is the right solution for consumers. As a minimum, there should be a single branded entry point for consumers wishing to make a complaint, with consumers shielded from 'background' competition.

Recommendation 4: ADR should be branded more consistently.

There is a wide variety of ADR types and processes available and a lack of clarity over terminology. In order to consolidate ADR as a key means by which consumer disputes are resolved, ADR needs to develop a clear, common, and well-known brand. Recent years have seen an increase in the number of ADR schemes branding themselves as ombudsman schemes. This may provide a starting point for a more consistently branded ADR offer.

Recommendation 5: ADR schemes should harmonise their practices wherever it is in the consumer interest to do so.

BEIS should work with the industry and key stakeholders to harmonise practice across ADR schemes. For example, consumers should be able to expect similar levels of procedural fairness and support in making a complaint regardless of the ADR scheme they are complaining to. The diversity of process and practice between ADR schemes is confusing for many consumers. While there is no need for identical processes to operate, without some common approaches and terminology, it will not be possible to develop common standards, benchmarks, and reporting requirements.

Recommendation 6: a single authoritative body should be tasked with setting common performance standards, benchmarks, and reporting requirement for all ADR schemes

While some positive developments in performance standards are already taking place, there is a need for more action. In particular, agreed benchmarks and common reporting requirements across all ADR schemes would make it easier to compare performance and raise standards. Having a single authoritative body with oversight of the ADR sector would also ensure that quality is maintained.

Research method

The research methods involved desk research, interviews, and a survey. The research took place in 3 phases and was supplemented by YouGov polling data.

Phase 1: mapping exercise. We undertook a desk-based mapping exercise in order to provide a snapshot of the current number and type of ADR schemes in the UK. The mapping exercise used publicly available information from ADR schemes' websites. The mapping exercise also drew on previous analyses of ADR in the UK. Overall, the mapping exercise allowed us to provide an up-to-date map of the UK's ADR landscape.

Phase 2: comparative analysis of selected ADR schemes. The second phase of the research involved comparing 11 ADR schemes using a framework developed in previous research commissioned by Citizens Advice. This framework features 8 criteria that allow ADR schemes to be compared. Our analysis was based on information publicly available on the websites of ADR schemes and follow-up telephone interviews with knowledgeable individuals within the schemes.

Phase 3: consumer experiences of using ADR schemes. The final phase of the research involved conducting 37 telephone interviews with consumers who had recently used an ADR scheme. The interviews sought to gather consumer perspectives on using ADR. These data provide an insight into consumer experiences and bring consumer perspectives to practitioners and policymakers.

Finally, as an additional aspect of the research, YouGov were commissioned to conduct a nationally representative survey of 2,109 people. The survey sought to obtain the views of the general public rather than those who had used ADR schemes (only 34 out of the 2,109 people surveyed had used ADR). The highlights of the survey are added throughout the report. A fuller summary of the methodology is available in Appendix B.

The research team would like to thank all the ADR schemes and consumers who took part in this research. Their assistance was much appreciated.

1 Introduction

Queen Margaret University's Consumer Dispute Resolution Centre and the University of Westminster's School of Law have been commissioned by Citizens Advice to conduct a comparative analysis of alternative dispute resolution schemes (ADR schemes) in selected consumer markets.

This introduction sets out:

- definitions of key terms in the report;
- the aims and context of the research;
- a summary of the research design; and
- the structure of the report.

Definition of key terms

This section defines the key terms used in this report. The boxes below explain what is meant by "alternative dispute resolution", what "alternative dispute resolution schemes" are, and the main types of "alternative dispute resolution processes" that exist.[1]

What is alternative dispute resolution (ADR)?

Alternative dispute resolution (ADR) refers to **the alternatives to litigation potentially available to resolve a dispute**. ADR can involve adjudicative approaches, where a binding decision is made on the dispute. It can also involve non-adjudicative approaches, where the aim is to obtain agreement between the parties. Some forms of ADR involve both approaches. In this report, we are concerned with ADR used to resolve disputes arising from a contract (or other relationship) between a consumer and a trader. This is often referred to as 'consumer ADR' .

[1] The definitions below are adapted from: Office of Fair Trading. 2010. *Mapping Consumer Redress: A Summary Guide to Dispute Resolution Systems*.

What are Alternative Dispute Resolution schemes (ADR)?

In this report, an ADR scheme refers to an **organisation through which consumers can seek redress from a trader** for a perceived or actual wrong arising from a contract (or other relationship) (adapted from Office of Fair Trading 2010). There are various types of ADR scheme available in the United Kingdom: ombuds schemes, arbitration schemes, conciliation schemes, and mediation schemes . Some schemes use a range of different processes to resolve disputes and distinctions between schemes are not currently well defined.

What are the main types of ADR process?

Mediation: a confidential process where an independent third party helps the people in dispute reach an agreement.

Conciliation: similar to mediation, but the independent third party has a more active role in suggesting what agreement should be reached.

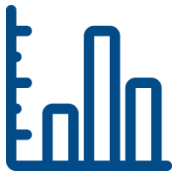
Arbitration: arbitration is a binding process where an independent third party evaluates a dispute and decides how it should be resolved.

Adjudication: adjudication is like arbitration, but usually produces a decision that is only binding on the business, not the consumer.

Ombudsman schemes: ombudsman schemes are independent third parties who consider complaints and usually combine fact-finding, mediation, and adjudication.

The infographic over the page gives a snapshot of what consumers who have heard of the term 'alternative dispute resolution' think it means. This is the first of several points throughout the report where polling data is presented to give an insight into how consumers see the issues covered in this report.

What do consumers think ADR means?



71%

of consumers thought that ADR was 'a means to avoid a dispute going to court'

55%

of consumers thought that ADR was 'a mediator'

51%

of consumers thought that ADR was 'an impartial arbiter'

Source: YouGov poll of 309 UK adults who had used or heard of ADR. Poll commissioned by Citizens Advice and conducted 14 and 15 March 2017.

Research aims and context

The aims of the research were to provide:

- an up-to-date map of the UK's ADR landscape;
- a comparative analysis of selected ADR schemes; and
- an insight into consumer experiences of using ADR schemes.

The research was designed to investigate whether the current ADR landscape works for consumers. In particular, Citizens Advice wanted to understand consumer expectations of ADR schemes and whether they deliver good outcomes for consumers. Citizens Advice also wanted to know whether there are differences between ADR schemes in terms of their effectiveness.

This research is timely. ADR schemes have an important role to play in protecting consumers. For many consumers, ADR schemes are the only realistic option to resolve their disputes. The introduction in 2015 of the European

Union's Directive on Consumer ADR (the Directive) has led to growth in the number ADR schemes and introduced some minimum quality requirements.

However, there are still concerns about the effectiveness of these new requirements [2] and the current consumer landscape for ADR remains confusing. [3] In particular, a wide variety of terminology and practices between ADR schemes, combined with a lack of consistency in approach, has the potential to undermine consumer confidence.[4]

Some of these issues could be addressed in the UK Government's forthcoming Consumer Green Paper, due to be published in Spring 2017. Consequently, this research sheds light on a number of important topical matters for policy and practice in the UK's ADR sector.

Summary of report structure

The rest of the report involves 5 sections:

- An analysis of the UK's current ADR landscape;
- A comparison of available data relating to 11 ADR schemes;
- A summary of some consumer experiences of ADR;
- Our conclusions; and
- Our recommendations.

[2] Kirkham, R., Regulating ADR: Lessons from the UK in: CORTES P. (ed.) *The New Regulatory Framework for Consumer Alternative Dispute Resolution,* 2016
[3] Citizens Advice, *Understand Consumer Experiences of Complaint Handling*, 2016
[4] Bondy, V., Doyle, M., and Hirst, C., *The use of informal resolution by ombudsmen in the UK and Ireland*, 2016

2 The ADR landscape

Key messages in this chapter

There has been an increase in the number of ADR schemes but gaps in availability remain

Consumers are likely to be confused where more than one scheme operates in the same sector

Because ADR is non-compulsory in many areas, consumers may not have access to redress

The ADR system is confusing and not based around consumers' needs

Introduction

This chapter describes the current ADR landscape in the United Kingdom. The information presented here is based on the desk-based mapping exercise conducted in phase 1 of the research (see Appendix B for details of the methodology and Appendix E – available as a separate document – for the full map of the ADR schemes identified in the research).

A particular aim of this chapter is to identify any gaps and overlaps between ADR schemes that may make the landscape difficult to navigate.

The chapter describes the ADR landscape across 8 dimensions:

1. Types of complaints and sectors covered by ADR
2. Responsibility for delivering ADR schemes
3. Types of ADR offered by ADR schemes
4. Geographical coverage of ADR schemes
5. Types of consumers covered by ADR schemes
6. Whether ADR schemes are approved by a competent authority
7. Whether ADR schemes are free to the consumer
8. Whether ADR schemes are compulsory for the business

Before describing the findings against each of these 8 dimensions, we provide a brief summary of the Directive on Consumer ADR, a key piece of European law that has recently had an impact on ADR provision in the United Kingdom.

The impact of the Directive on Consumer ADR

The number and type of ADR schemes have increased following the UK Government's implementation of the Directive on Consumer ADR 2013/11/EU (the Directive) in July 2015.

The Directive requires the UK Government to ensure that an ADR scheme exists for consumer-business disputes in all sectors, with some limited exceptions. The regulations which implemented the Directive in the UK require businesses who sell directly to consumers to point the consumer to an approved ADR scheme (if they cannot resolve the dispute themselves), and to state whether or not they intend to use that scheme.

The regulations also require that ADR schemes who wish to obtain approval must meet certain quality standards. The regulations do not, however, require ADR schemes to become approved, nor do they make it mandatory for all businesses to participate in an ADR scheme. As a result, beyond the pre-existing statutory schemes, it has essentially been left to traders themselves to decide whether they wish to participate in ADR or not.

The report now turns to analysing the UK's ADR landscape across each of the 8 dimensions identified above.

Types of complaints and sectors covered by ADR

A total of 147 schemes were identified, across a wide range of sectors. This confirms that the number of schemes has expanded in recent years, primarily as a result of the ADR Directive. In 2010, the OFT identified 95 ADR schemes in operation.[5] The OFT research identified schemes spanning 35 sectors, but it was difficult to make a direct numerical comparison with the present exercise. While it was easy to identify the various regulated sectors, and also a number of

[5] Office of Fair Trading, *Mapping Consumer Redress: A Summary Guide to Dispute Resolution Systems*, 2010

unregulated sectors (e.g. holidays/travel or construction and maintenance), not all schemes easily fit into specific sectors. This is primarily due to the introduction, since the OFT research, of several schemes which cover a wide range of 'general consumer issues', such as the Dispute Resolution Ombudsman and Ombudsman Services: Consumer Ombudsman.

In a number of instances, there are several distinct ADR schemes run by the same body. The Association of British Travel Agents (ABTA), for example, runs 3 separate ADR schemes for holidaymakers – these offer conciliation, arbitration and mediation respectively. Likewise, the Association of Chartered Certified Accountants runs 3 distinct schemes, offering conciliation, adjudication, mediation, and arbitration.

As the OFT report found in 2010, the vast majority of schemes relate to consumer services. Only a small number (7) deal with consumer goods only. There are, however, a number of schemes which cover both goods and services. For example, there are several schemes which cover both new and used cars and car servicing/repair. There are also a number of schemes that appear to cover both goods and services, as they cover 'general consumer' issues.

The OFT report identified a number of consumer goods sectors which had no specific dispute resolution schemes (e.g. food and drink), and other areas where there was only limited coverage (e.g. various household goods). While it is still the case that there are no, or a limited number of specific ADR schemes in some goods sectors, the landscape has changed since 2010, due to the establishment, as noted above, of a number of general consumer ADR schemes.

Responsibility for delivering ADR schemes

ADR schemes are provided by a variety of bodies, including statutory public bodies, Trade Associations, and not for profit limited companies established specifically to provide dispute resolution. The majority of these ADR schemes provide all aspects of the service internally.

Some of them, however, use external providers to run the ADR scheme. The most commonly used provider is the Centre for Effective Dispute Resolution, which runs 26 schemes. Other providers include Ombudsman Services Ltd, the Chartered Institute of Arbitrators, the Dispute Resolution Ombudsman and Dispute Service Ltd.

In some cases, the provider, while a separate body, is very closely linked to the organisation commissioning the ADR scheme. The Bus Appeals Body and the Bus Appeals Body Scotland, for example, are both listed as being provided by Bus Users' UK/Scotland and the Confederation of Passenger Transport UK. These appeals bodies are a joint initiative of those bodies, and deal with complaints that cannot be resolved by Bus Users' UK/Scotland.

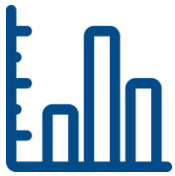
In other instances, the delivery organisation has a panel of independent dispute resolvers - for example the Independent Press Standards Organisation scheme is described as being provided by the Independent Press Standards Organisation arbitrator panel, while the National Mediation Helpline provides a choice of accredited mediators.

Types of ADR processes offered by ADR schemes

Many ADR schemes offer more than 1 form of ADR, often as distinct stages of a 2 or 3 stage process. For example, a number of schemes offer both conciliation and arbitration, or both conciliation and adjudication. These schemes might be called ombudsmen or have other names. Other organisations offer several distinct ADR schemes under a single overall brand. Ombudsman Services, for example, offers an ombudsman service to 5 sectors whereas for other sectors it provides adjudication. The Centre for Effective Dispute Resolution (CEDR), meanwhile, offers conciliation schemes, adjudication schemes, and arbitration schemes.

The infographic below suggests that consumers are unfamiliar with the term 'alternative dispute resolution' although, surprisingly, they are generally quite familiar with a range of ADR processes. The most well known processes were mediation and ombudsman schemes, while less well known processes were arbitration, conciliation, and adjudication.

Had consumers heard of or know about ADR?



15%

Of consumers had heard of the term 'alternative dispute resolution'.

60%

of consumers know what 'adjudication' means. The next least well known process was 'conciliation' (61%).

83%

of consumers know what 'mediation' means. The next best known process was 'ombudsman schemes' (77%).

Source: YouGov poll of 2,109 UK adults commissioned by Citizens Advice and conducted 14 and 15 March 2017.

Previous research commissioned by Citizens Advice suggests that consumers generally have poor awareness of the ADR options that may be available to them.[6] That research found that only 21% of consumers were aware of independent complaint schemes providing mediation services free of charge. It also found that consumers were confused about what ADR actually involves (for example, not recognising ombudsman schemes as ADR or thinking that Citizens Advice offered ADR). The results shown in the infographic above show surprisingly high levels of awareness of ADR schemes. This is particularly surprising given the low number of consumers who have used ADR (2% according to the YouGov poll) and, indeed, was not borne out by the qualitative findings presented in chapter 4, below. Further research into consumers' understanding and awareness of specific ADR processes would, therefore, be welcome.

[6] Citizens Advice, *Understand Consumer Experiences of Complaint Handling*, 2016

Geographical coverage of ADR scheme

The vast majority of schemes operate UK- wide. Where a scheme is not UK wide, there is generally a clear reason for this, often as a result of different legal systems or devolved issues. Housing law, for example, is devolved in Scotland and Northern Ireland, which have their own separate tenancy deposit schemes. The 3 UK jurisdictions also have their own separate regulatory bodies for the legal profession, and there are separate ADR schemes for each of these. In other cases, there are separate trade bodies in the different jurisdictions (e.g. the Scottish Motor Trade Association) which have established their own schemes.

There are 6 schemes which operate EU-wide, most of which cover both domestic and cross-border disputes. There are 11 schemes which operate in England and Wales only (as well as 1 which is England-only; 1 which covers GB only; 1 which covers London only; 1 which covers England, Wales and Northern Ireland; and 1 which covers GB, except London). There are 9 schemes which cover Scotland only; 3 which cover Northern Ireland only; and 1 which covers both Scotland and Northern Ireland.

Types of consumers covered by ADR schemes

As might be expected, the target consumer group for each scheme is very much dependent on the type of organisation involved, and is closely related to the sector in which it operates. The Association of British Travel Agents scheme, for example, is targeted towards holidaymakers, while the Financial Ombudsman Services is focused on financial services.

There are a number of schemes, however, which have several target groups. The Consumer Council for Northern Ireland, for example, targets energy consumers, passengers, water and sewerage consumers, and postal consumers, as all of these areas fall within its statutory remit.

There are also a few schemes which have a general remit, such as Ombudsman Services: Consumer Ombudsman, the Dispute Resolution Ombudsman, the Retail Ombudsman and Small Claims (UK) Limited.

Whether ADR schemes are approved by a competent authority

The box below explains the system created to approve ADR schemes under the Consumer ADR directive.

Competent authorities under the Consumer ADR Directive

The Directive requires the UK Government to establish competent authorities to approve ADR schemes and set the standards that ADR scheme applicants must meet in order to achieve approval. Only a competent authority can approve an ADR scheme, however, ADR schemes are not required to seek approval if they do not wish to do so.

There are currently 9 UK competent authorities, as set out below:

- Financial Conduct Authority
- Legal Services Board
- Secretary of State for DWP
- Civil Aviation Authority
- Gambling Commission
- Gas and Electricity Markets Authority (Ofgem)
- Office of Communications (Ofcom)
- National Trading Standards Estate Agency Team, Powys County Council
- Chartered Trading Standards Institute

The 147 schemes identified were classified according to whether or not they listed themselves as being approved by a competent authority. The European Commission's website, on which all approved ADR providers are notified, lists 42 ADR schemes as being approved. Our research found 54 approved schemes, while the remaining 93 did not appear to be approved.[7]

A handful of schemes are approved by more than 1 competent authority - for

[7] The discrepancy in findings between our research and the European Commission's findings is based on the fact that some ADR providers deliver more than one discrete ADR scheme. In our research, each discrete scheme was counted as approved, whereas the European Commission's list only includes the overall ADR provider.

example, the ADR Group is accredited by both Chartered Trading Standards Institute and the Gambling Commission, while several schemes in the property sector are approved by both Chartered Trading Standards Institute and National Trading Standards Estate Agency Team, Powys County Council.

Competent authority	Number of schemes approved
Chartered Trading Standards Institute	36
Gambling Commission	10
Civil Aviation Authority	2
Ofcom	3
Ofgem	1
Financial Conduct Authority	1
Secretary of State for DWP	1
Powys County Council	4
Total	**59**[8]

In addition to approval under the ADR Directive, ADR schemes may go through other authorisation processes. For example, in order to join the Ombudsman Association, ADR schemes are required to go through a validation process to ensure that they operate in line with principles of good complaint handling. In some cases, ADR schemes might also require approval by a government body or regulator in order to operate.

Whether ADR schemes are free to the consumer

Most of the schemes about which information was available are free to the consumer, although no information about this was publicly available for more than half of schemes. Some organisations offer both a free scheme and others which attract a cost – for example, conciliation is free with both ABTA and the Association of Chartered Certified Accountants, but for both providers the consumer bears part of the cost of the arbitration and mediation schemes. In

[8] As noted above, our research found a total of 54 ADR schemes had been approved under the ADR Directive. The figure of 59 in this table arises because some of the schemes had been approved by more than one competent authority.

one case, the consumer potentially bears the full cost of the ADR scheme (Cavity Insulation Guarantee Agency Independent Arbitration scheme).

Whether ADR schemes are compulsory for the business

ADR is only mandatory in certain regulated areas (such as financial services, energy, communications, estate agents, legal services). Everywhere else, there is currently no mandatory requirement for businesses to take part in an ADR scheme.

Conclusions – the implications for consumers

It should be noted that the conclusions to be drawn from the mapping exercise are limited by the lack of information publicly available about many of the schemes. A number of key conclusions as to the implications for consumers can, however, be drawn from the information which it was possible to gather.

From hereon in the report, each chapter ends with a set of conclusions. These build up throughout the report and provide a thread linking each sections to our ultimate conclusions and recommendations.

Conclusion 1: the number and scope of ADR schemes has increased, but gaps clearly remain.

Firstly, the findings confirm that there has been a sizeable increase in the number and scope of ADR schemes across the UK in recent years. This is likely to be largely the result of the implementation of the ADR Directive in 2015. At first glance, this would appear to be good news for consumers. Previous research had found that there were a number of sectors, often with high consumer complaint volumes, which were not covered by ADR.[9]

[9] Doyle, M., Ritters. K. and Brooker, S., *Seeking resolution: the availability and usage of consumer to business alternative dispute resolution in the UK, 2004*. London: National Consumer Council/DTI. Brooker, S. 2008. *Lessons from Ombudsmania*. London: National Consumer Council. Office of Fair Trading. 2010. *Mapping Consumer Redress: A Summary Guide to Dispute Resolution Systems*.

There now exist a number of ADR schemes which cover consumer goods and services in a general sense, including 2 new ombudsman schemes and the extension of a pre-existing one (the Dispute Resolution Ombudsman). The Consumer Ombudsman was established in 2015 to 'plug' the gaps not covered by existing ombudsman schemes in relation to consumer goods and services complaints. The Retail Ombudsman, also established in 2015, deals with a variety of goods and services complaints. The Dispute Resolution Ombudsman deals with retail goods sold across various sectors.

It is unclear, however, whether the availability of ADR has improved much in the sectors identified by the OFT in 2010 as not being covered. This is because, while all traders in the non-regulated sectors are under a legal obligation to tell consumers about an ADR scheme, traders are under no obligation to use it, unless they are a member of the scheme in question. While it seems likely that more traders in these sectors will now be covered by an ADR scheme than previously, it is equally clear that gaps in provision almost certainly remain, because membership of an ADR scheme is not compulsory.

Conclusion 2: in regulated sectors, the ADR landscape is likely to be confusing for consumers where multiple schemes operate.

Consumers are also likely to be confused by the existence of multiple ADR schemes in some sectors. In some regulated sectors, such as energy and financial services, there is only 1 ADR scheme which has been approved by the appropriate competent authority, making it easy for consumers to identify the correct body to deal with their dispute. In other regulated sectors, however, a drive to increase competition among ADR providers has led to several providers being approved in the same sector.

One example of this is the communications and post sector, where Ofcom has approved 3 separate providers (Communication and Internet Services Adjudication Scheme; Ombudsman Services: Telecommunications and Post; and the Postal Redress Service). The property sector is another example. Where a consumer has a dispute in these sectors, the trader will be a member of an approved ADR scheme, but it may not be immediately clear to them that there is more than 1 approved scheme, or which one the trader in question belongs to.

There is also more than 1 approved ADR scheme in the aviation sector. The Civil Aviation Authority has approved 2 schemes: Airline Dispute Resolution provided

by the Retail Ombudsman and the Centre for Effective Dispute Resolution: Aviation. A third scheme, Ombudsman Services: Aviation is approved by the Chartered Trading Standards Institute, although this appears to be inoperative (adding to the confusion of the landscape, this scheme is listed on the European Commission website despite appearing not to be in operation). The Civil Aviation Authority have also approved a German conciliation body to deal with complaints for UK passengers of many airlines.

In regulated sectors, having 1 ADR provider per sector makes sense.

In regulated sectors, it is particularly important that the different actors (regulator, consumer advocate and ombudsman) work closely together, sharing information on complaints and acting quickly in response to detriment. The energy market is an example of where this works well. The tripartite agreement between Citizens Advice, Ofgem, and Ombudsman Services: Energy, which commits all 3 organisations to share data with each other where appropriate in order to identify market trends. It is important to guard against commercial interests conflicting with this information sharing, and also to have clear distinctions between the 3 bodies' functions for purposes of clarity and accountability.

Competition among providers can keep a check on prices and service standards. But there are ways to preserve the benefits of competition in driving efficiencies and keeping costs low for businesses within a tripartite model. One option would be for ADR schemes to be regularly tendered, with competition among ADR providers at the tender stage. In addition, monopoly providers in regulated sectors should be subject to outside scrutiny. For instance, in the energy market, Ofgem and Citizens Advice consult with stakeholders and report to the government on their strategic priorities and financial management. And network monopolies are subject to a price control process run by Ofgem.

Where no regulator exists, the case for having 1 ADR scheme per sector is less clear-cut. If mandatory ADR is rolled out to all sectors (as recommended later in this report), the Department for Business, Energy and Industrial Strategy should consider how to avoid confusion, caused by overlaps of schemes, through the following 2 options. The government could step in to select a single provider in each sector. Standards would be maintained by having an authoritative Government-appointed body responsible for appointing and regularly reviewing ADR schemes. However, this may not be necessary and we therefore suggest the following alternative: allow multiple schemes to exist and compete with each other, but ensure that this happens in the 'background' with only a single

branded entry point for consumers wishing to make a complaint. This has the advantage that the potential benefits of competition would be maintained, but not at the expense of consumer confusion.

Conclusion 3: the ADR landscape in non-regulated areas is complicated by overlaps in schemes

The landscape is more complicated in some of the non-regulated sectors. For example, the mapping exercise identified 3 schemes covering the vehicle sector: the Motor Ombudsman, the Scottish Motor Trade Association, and the National Conciliation Service. This is further complicated by the fact that some of the schemes covering general consumer complaints do not appear to exclude complaints about cars. The list of participating companies for the Consumer Ombudsman, for example, includes a number of companies operating in the vehicle sector. Faced with this, how does a consumer who has a dispute about a second hand car know which scheme to turn to?

In addition, the fact that, under the ADR Directive, businesses must tell consumers about ADR, but are not obliged to be part of an ADR scheme, is likely to result in consumer confusion. Consumers will naturally assume that – where an ADR scheme exists – they should be able to use it. The fact that participation in ADR in non-regulated sectors is at the discretion of the business is, therefore, potentially problematic for consumers.

One of the sectors with consistently high volumes of consumer complaints is home maintenance and improvements. There is a bewildering array of ADR schemes in this sector, covering a variety of different types of traders and services (the box below highlights some of these). This provides a good case study of the complexity facing consumers.

ADR schemes for home maintenance and improvements

- Association of Plumbing and Heating Contractors Independent Dispute Resolution Scheme
- Cavity Insulation Guarantee Agency Independent Arbitration Service for Customers
- Chartered Institute of Plumbing and Heating Engineering Investigation Committee
- Confederation of Roofing Contractors

- The Consumer Code for Home Builders Adjudication Scheme
- Dispute Resolution Ombudsman
- Double Glazing and Conservatory Ombudsman Scheme
- Federation of Master Builders (Conciliation)
- The Glass and Glazing Federation Conciliation Scheme
- The Glazing Arbitration Scheme
- Home Improvement Complaints Service (Ombudsman Services)
- Home Insulation and Energy Systems
- Independent Consumer Adjudication Scheme: Build-Zone
- Kent County Council ADR Scheme
- National Federation of Roofing Contractors
- NHBC Resolutions Service
- Painting and Decorating Association Clients' Advisory Service
- Plumbing Industry Licensing Scheme
- Scottish Decorators Federation
- Small Claims Mediation UK (Mediation)
- Trust Mark

Further confusion is added by the fact that many local Trading Standards departments throughout the country run trusted trader schemes that provide ADR when a consumer is in dispute with a business. Many of these trusted trader schemes operate in the home improvement area.

There are clear overlaps here in the specific sub-sectors covered, and some of the schemes are also linked. The Home Improvement Complaints Service, for example, which is run by Ombudsman Services, covers complaints about traders which are members of either the Double Glazing and Conservatory Ombudsman Scheme or Home Insulation and Energy Systems. The ADR available in this sector is complex and confusing.

Conclusion 4: the current ADR landscape is not based around the needs of consumers.

As Brooker pointed out (specifically in relation to ombudsman schemes), a further difficulty with the current sectoral approach to ADR schemes is that people do not live their lives in a way that necessarily matches up with particular

sectors.[10] He gives the example of a consumer buying a home, which is likely to involve them with a variety of service providers, including an estate agent, mortgage lender, financial adviser, a surveyor and a lawyer. This potentially draws in a number of different ADR schemes for each of these providers/ stages of the process. This makes it difficult for them to navigate these schemes and work out which is most appropriate, at a time in their life which is already very stressful. If the home is a new build and/ or an architect is involved, the picture becomes even more complicated.

While the majority of schemes are UK-wide in their coverage, the limited geographical nature of some of the ADR schemes may also be confusing, particularly for those consumers living in the devolved nations. If a consumer in Scotland has a problem with a new or used car, for example, they need to navigate 2 UK-wide schemes and a separate Scottish scheme, in order to find the correct one. A consumer in Northern Ireland with a complaint about air travel, for example, can approach the Consumer Council for Northern Ireland for assistance, but there are also ADR schemes in the sector which cover the entire UK.

Conclusion 5: in non-regulated areas the lack of mandatory ADR leaves consumers without access to redress.

One of the biggest difficulties for consumers with disputes involving traders in unregulated sectors is that traders are not required to use ADR. According to Causton:

> 'Every day, ADR providers receive hundreds of enquiries from consumers eager to engage in ADR, only to be disappointed because businesses are not engaging, particularly in the retail sector, with some notable exceptions'.[11]

It is, therefore, possible that many consumers who have a dispute with a business are unable to access an appropriate ADR scheme, even where they are able to locate such a scheme. This is because the business in question may not be a member of that scheme.

[10] Brooker, S. 2008. *Lessons from Ombudsmania*. London: National Consumer Council.

[11] Causton P., *The ADR Directive - Airline complaints and the Civil Aviation Authority - Journey to nowhere*, 2016

Conclusion 6: in non-regulated areas, the current approach favours business interests by allowing them, rather than consumers, to choose which ADR scheme (if any) they wish to participate in.

Where a business is a member of an ADR scheme, the consumer has no control over which scheme the business chooses or, consequently, the standards which govern that scheme. While more than 55 schemes identified in the mapping exercise are explicitly approved by a competent authority, the remaining 92 do not appear to be. While this does not necessarily mean that those schemes have poor quality standards, it does mean that it is difficult for consumers to know whether they operate to an acceptable standard.

The consumer may also have little choice as to the type of dispute resolution they engage in, as this will depend on what is offered by the relevant ADR scheme. The mapping exercise suggests that the number of ombudsman schemes available in the consumer sector increased since 2010, when the OFT conducted its own mapping exercise. This should be good news for consumers, as ombudsman schemes offer a number of advantages. Among other things, they offer a free, accessible service run by people with knowledge and subject expertise, and place an emphasis on learning from individual complaints to help raise industry standards.[12]

There has, however, also been an increase in the number of schemes offering a more formal adjudication process, which may be less accessible for consumers (although this formality may also result in a binding process that could favour consumers). Most other schemes offer either conciliation, mediation, or arbitration, or a mixture as part of a staged process.

Conclusion 7: overall, the ADR landscape is more complex and confusing than ever before.

The primary conclusion drawn in this chapter, therefore, is that the current ADR landscape remains confusing with a variety of gaps and overlaps. In theory, the increase in the number of available schemes in recent years should have

[12] Hodges, C., Consumer ombudsmen: better regulation and dispute resolution, 2015. *ERA Forum*, Vol. 15, pp. 593-608.

increased consumers' access to ADR when they experience a problem. The lack of compulsion on traders to use such a scheme, however, means that this may not be the case. As a result, the consumer ADR landscape now appears more complex and confusing than ever.

3 Comparative assessment of selected ADR schemes

Key messages in this chapter

There are significant gaps in published information on the performance of ADR schemes

Published information is not reported consistently and is hard to compare

Some ADR schemes publish significantly more and better information than others

Based on the data available, it is likely that performance across ADR schemes is variable

Introduction

This chapter presents the findings of phase 2 of the research, which involved a comparative assessment of 11 ADR schemes. The ADR schemes were selected to ensure a relevant range of regulated and non-regulated sectors were included and to make sure that areas that were a policy priority for Citizens Advice were covered. Comparing 11 schemes in more detail has allowed us to build on and deepen our analysis of the ADR landscape presented in chapter 2. The box over the page shows the schemes included in our comparative assessment.

Schemes operating in regulated market sectors

Financial Ombudsman Service

Ombudsman Services – Communications

Ombudsman Services – Energy

Retail Ombudsman – Aviation

Water Redress Scheme

Schemes operating in non-regulated market sectors

Motor Ombudsman

Property Redress Scheme – Letting Agents

Tenancy Deposit Scheme

Property Ombudsman

Association of British Travel Agents (ABTA)

Dispute Resolution Ombudsman/Furniture Ombudsman

The methodology used to collect the data is set out in Appendix B.[13]

The comparative assessment criteria

To conduct the comparative assessment, we used a framework developed in research commissioned by Citizens Advice (Klein 2015). The framework includes 8 criteria, each supported by performance and compliance indicators. The 8 criteria are:

1. Accessible and visible
2. Independent and impartial
3. Expert and professional
4. Comprehensive and integrated
5. Adequately resourced
6. Effective and efficient
7. Responsive and future-proof

[13] In relation to the table above, please note that water/sewerage is a statutory area, regulated by Ofwat. However, the ADR scheme itself – the Water Redress Scheme – is voluntary and not covered by any regulation, including the ADR directive, as water is not a contractual service.

8. Transparent and accountable

This chapter now presents our findings for each criteria. Appendix E (available, on request, as a separate document) presents the detailed data tables on which our analysis is based.

The challenges of comparing performance

It is difficult to reach firm conclusions about performance on the basis of the information collected, for a number of reasons.

Firstly, while the criteria should in theory apply equally to all schemes, the variation in the size of the schemes and the resources available to them must be acknowledged. The Financial Ombudsman Service is the largest consumer ADR scheme in Europe.[14] It has 4,500 staff and handled more than 1.6 million enquiries in 2016. It has also been in existence since 2000, and has therefore had many years to put its current processes and practices in place. While Ombudsman Services, which operates Ombudsman Services: Energy (established in 2008) and Ombudsman Services: Communications (established in 2002), is the second largest scheme, it is considerably smaller than the Financial Ombudsman Service, with a total of around 300 staff.[15] It dealt with around 88,000 (Ombudsman Services: Energy) and 99,000 (Ombudsman Services: Communications) consumer enquiries, in 2016.

In contrast, some of the other schemes are dealing with much lower numbers of complaints, and some have very few staff. Some of the newer schemes have only been up and running since 2014 (The Property Redress Scheme) or 2015 (The Retail Ombudsman: Aviation, The Water Redress Schemes), and are likely to still be bedding in their processes.

Secondly, the contexts within which the various schemes are operating are very different. Some are underpinned by statutory requirements on their members, while others are not. The breadth of the sectors involved and the complexity of the disputes dealt with also varies considerably.

[14] Office of Fair Trading, *Mapping Consumer Redress: A Summary Guide to Dispute Resolution Systems*, 2010. Cortes P., The Impact of EU Law in the ADR Landscape in Italy, Spain and the UK: Time for Change or Missed Opportunity? ERA Forum (2015) 16: 125. doi:10.1007/s12027-015-0388

[15] Cortes *Ibid*.

The third reason why it is difficult to draw firm conclusions from this phase of the research is that, as noted above, there is a lack of available data. As can be seen from the discussion earlier in this chapter, and from the tables in Appendix E, there are considerable gaps in the information available in relation to many of the indicators. These are discussed in more detail below where appropriate.

This chapter now discusses the data in relation to each of the 8 assessment criteria. Each section below begins by highlighting the various performance measures that apply to each criterion.

Accessible and visible

Outcomes: all those who want/need to use the services can

Performance and compliance indicators:

- Levels of awareness by client group (domestic, micro-enterprise, vulnerable, domestic)
- Percentage and volume of clients that are signposted to other providers because their issues are outside of remit
- Projected number of clients per annum for the last 3 years
- Usage levels by client groups including: customer contacts per annum (average over last 3 years)
- Top 5 issues contacted about and volume for most recent complete year
- Charges to clients (including telephone)
- Details of communication channels available
- Details of tailored services for vulnerable consumers

Very little information about consumer awareness of the schemes was available, other than that provided by the Financial Ombudsman Service. While the Financial Ombudsman Service awareness data shows very high awareness overall (over 90%), levels are significantly lower among some social and demographic groups, for example among 18-24 year olds (65%). This suggests that even for a high profile and well-resourced scheme like the Financial Ombudsman Service, there is a need to consider ways of increasing awareness among certain groups.

It appears from the findings that other schemes do not carry out consumer awareness research. It is clear that a number of schemes, in both regulated and non-regulated sectors, believe that consumers must be aware of their existence because members are required either by law or as part of their membership to provide information to their customers about the scheme. Yet recent research commissioned by Citizens Advice suggests that this confidence may be misplaced.[16] This research found low levels of awareness of ADR, with only 28% of consumers in the sample being aware of ADR schemes operating in regulated sectors and even fewer (16%) aware of those in non-regulated sectors. Low levels of awareness were reflected in consumers' behaviour. When asked about a recent problem they had had with a business, only 8% of consumers in the sample complained to an ADR scheme in regulated sectors and only 5% complained in non-regulated sectors.

In the absence of research by ADR schemes into consumer awareness levels, it cannot be stated with certainty whether consumers are aware that a scheme exists. Moreover, it is not possible to identify any particular groups which have low levels of awareness and/or should be targeted in any awareness-raising exercise. Carrying out consumer awareness research along the lines of that conducted by the Financial Ombudsman Service would be an important first step for other schemes in identifying whether they are reaching consumers who may wish to use their services.

As with the 2015 Citizens Advice report on energy redress[17], it is unclear from the available data whether all consumers with a dispute are able to access an appropriate dispute resolution scheme. It is therefore difficult to conclude what barriers there may be for consumers (whether all consumers or particular groups) in attempting to identify and access the various schemes.

Few schemes could provide data on the number of consumers signposted by them to other providers, whether because their dispute was beyond the scheme's remit or because they could only provide partial assistance. There was also little information collected as to which organisations consumers were referred to, or where those who did contact a scheme had been referred from. It is therefore not possible to build a clear picture of how or whether consumers manage to access the correct scheme. While some schemes appeared to

[16] Citizens Advice, *Understand Consumer Experiences of Complaint Handling*, 2016
[17] Klein G., Strengthening and streamlining energy advice and redress, 2015.

assume that signposting was good within their sector, and that there were, therefore, few issues for consumers in accessing them, no evidence was provided to support this.

Gathering data on signposting and referrals to and from each scheme would be a helpful first step for schemes in evaluating whether they are accessible for consumers.

The evidence suggests that most schemes are fairly accessible to those consumers who do manage to contact them. They provide a free service (aside from the cost of telephone calls) and various communication channels. Some schemes offer a greater variety of channels than others, which is likely to increase accessibility for some groups. While some schemes were able to demonstrate various tailored services for vulnerable consumers, the findings suggest that this was not the case across the board, and that the services available are variable.

One clear theme arising from the analysis is the lack of information which appears to be collected by many of the schemes about the consumers who use them. When asked whether they collect any demographic data about their customers, very few schemes said that they did. When asked about consumer types, a number of schemes responded according to the sector they operate in e.g. retail consumers/motorists/financial services consumers, rather than by the categories provided - domestic/micro-enterprise/vulnerable. This suggests that, while schemes know who their members are, they may not have a clear idea about who the consumers who wish to use ADR are.

This raises a question as to whether all schemes are providing the services their consumers need or want, if they don't know who their consumers are. While many of the schemes carry out some degree of consumer satisfaction research, it does not appear from the findings that they specifically ask consumers (or potential consumers) what services they need, and how the scheme and its processes might be better tailored to their needs.

All of this suggests that, where they do not currently do so, schemes should consider 3 things. Firstly, collecting demographic data about their consumers. Secondly, finding a proportionate way (given their available resources) of asking consumers what they need and want from the scheme in question. Thirdly,

making use of this information to tailor their services to those needs. Any specific needs of particular vulnerable groups should be identified, and addressed as far as possible.

Independent and impartial

Outcomes:

- the service is trusted, which in turn enhances usage and industry responsiveness
- advice/ decisions on complaints help improve standards of service from service providers

Performance and compliance indicators:

- Levels of trust in service provider from clients, industry and policy-makers
- Details of procedures used to ensure independence from industry

Overall, most schemes scored well on this performance indicator. Most could demonstrate that they had mechanisms in place to ensure that they are independent from, and seen to be independent from, industry. Most of them did so through their governance structures, which included non-industry (and in some cases specific consumer) representatives.

Most of the schemes involved in the comparative assessment exercise stated that they were approved by a competent authority. One of the criteria for approval by a competent authority under the ADR Directive is that the approved redress scheme must be, and be seen to be, independent from those whose disputes it is resolving, i.e. both consumers and the business. Some schemes also pointed to their approval by other relevant bodies, such as the Department for Communities and Local Government, the Consumer Codes Approval Scheme, and the Ombudsman Association.

In terms of whether consumers trust schemes to be independent and impartial, no schemes carry out research into trust levels, aside from the Financial Ombudsman Service, which reported high levels of trust. Other schemes should consider incorporating questions on trust levels into any consumer research

they carry out. It would also be helpful to ask industry and policy makers about their levels of trust in the scheme.

Expert and professional

Outcome: frontline staff have the skills and knowledge necessary to identify and address clients' needs, operate with the highest standards of customer care and deliver fair decisions. This in turn enhances all outcomes for consumer, energy providers, and the economy.

Performance and compliance indicators:

- Level of complaints about redress provider by client group (last 3 years)
- Level of client satisfaction (by client group) with the process
- Details of mandatory training and accreditation requirements
- Details of significant service quality issues identified (either through internal or independent assessments)

Most schemes were able to provide some level of data on the performance and compliance indicators in this area, which was a positive finding. As with other indicators, however, some schemes did not provide much information. It was clear that some schemes do not collect any consumer satisfaction data at present (although 2 said they intend to start this soon), and of those which did, most did not collect particularly detailed information about this, although the Financial Ombudsman Service was again a notable exception. Some provided only headline figures, and most did not make it clear whether the figures provided related only to consumers, or also to service providers who used their service.

This lack of data makes it difficult for ADR schemes to demonstrate the value of their service, and to make any necessary improvements. The collection of detailed consumer satisfaction data across all user groups (including providers) should therefore be a priority for those schemes which do not currently collect this information.

Most were able to provide some data on complaints made about the scheme. Most recorded fairly low levels of complaints, most notably the Financial

Ombudsman Service, which reported that only 0.5% of cases dealt with in 2016 resulted in a service complaint. While complaint levels for Ombudsman Services: Energy and Ombudsman Services: Communications were low given the overall number of customer contacts, a high percentage of these complaints were upheld. The high proportion of complaints upheld had been identified as an issue by the independent assessors. All schemes should record information about the level of complaints made about them, where they do not currently do so.

While a number of schemes either said they had not identified any major service quality issues, or did not provide information about this, most said that they had identified service quality issues. In many cases, these had been, or were in the process of being, addressed. This is on the face of it a positive finding, as it indicates that some schemes are monitoring such issues as they arise, and are seeking to address them. It is possible, however, that service quality issues exist, but have not been identified due to the lack of service data available, as identified elsewhere.

Comprehensive and integrated

Outcome: Consumers get maximum support for minimal effort

Performance and compliance indicators:

- Details of remit– geographical responsibility; consumer issues and markets; consumer type (domestic, micro-enterprise, vulnerable, advisor)
- Key omissions identified in remit according to perceived negative impact on consumers, industry and the economy
- Referrals- how do clients hear about the service (e.g. company, another agency stating which one, internal referral if you supply more than one discretely funded service within your organisation? Details of top 5, and percentage and volumes for each source)
- Signposting- percentage and volume of customers referred to other agencies as your organisation could provide only partial assistance
- Organisations clients referred on to- details of top 5, providing percentage and volume
- Warm transfers- percentage and volume of customers handed immediately over to signposted organisation (e.g. calls put through, emails forwarded)

While most schemes cover the whole of the United Kingdom, some apply only to certain areas of the country. While this is often for good reasons, relating to devolution or differing legal systems, this may, as discussed in chapter 2, cause confusion for consumers in some instances. For example, consumers across the UK can access the Property Redress Scheme where they have issues with an estate agent who is a member, but not where they have problems with a letting agent operating outside England.

A few schemes identified gaps in their remit, most notably Ombudsman Services: Communications, which pointed to several gaps including the inability to deal with complaints about equipment sold in conjunction with a communications service, and an inability to take complaints from small businesses. Any such gaps are of concern, as this means that some consumers are unprotected.

While most schemes could provide some information about sources of client referrals, few could provide statistics on this. As noted earlier, gathering information on where clients come from would help schemes to assess whether consumers are able to access them. Again, several schemes pointed to the requirement on member businesses to signpost consumers to them. Without data on referrals, however, it is not possible to say definitively whether this is where most referrals are coming from.

In fact, some of the few schemes which do collect this data found that the majority of referrals came not from member businesses, but through internet search engines. This information is very useful to schemes in considering where best to target their resources, in order to ensure that consumers can access them. It is another important part of the overall picture to assist schemes in demonstrating their value and making improvements. Schemes should therefore collect this information, where they do not do so already.

Likewise, few schemes collect data on either the numbers of consumers they signpost elsewhere, or where they are signposted to. Again, collecting this information would be useful in building up a picture of how many consumers are accessing the scheme incorrectly. This information could be used to identify any changes which might help to ensure that consumers are directed towards the correct scheme at the outset, reducing the likelihood of them giving up as a

result of 'referral fatigue'.

Adequately resourced

Outcome: service can deliver in line with expectations and need

Performance and compliance indicators:

- Funding- who funds the organisation's redress activities (e.g. through licence fee, directly from industry, via government fund paid for by consumers etc), by how much and over what timescale? State separately if more than one
- Cost- set up and year set up OR anticipated costs and launch year if in development (e.g. from impact assessment/tender)
- Cost- annual including average over last 3 years and last full years' actual
- Details of current/future resourcing shortfalls identified (e.g. money, staff, premises)

All of the schemes are funded by their members, mainly through a combination of an annual subscription and case fees. Those which provided information about costs appeared to be adequately resourced, and some schemes publish this information in their annual reports. Some did not provide this information, however. In some cases, schemes said this was because the information was commercially sensitive, but others simply said that they had no information on this. This is a matter of concern, as in the absence of this information, it is difficult to judge whether a scheme is adequately resourced. While no scheme reported a current shortfall, it is important that schemes have sufficient resources to manage any potential spike in complaint numbers which could arise.

Effective and efficient

Outcomes:

- build client confidence and capacity to successfully navigate the markets for themselves
- low cost per client/issue versus other advice/redress providers

Performance and compliance indicators:

- Percentage and volume of client issues resolved where they are within remit
- Cost- per customer contact and by issues (no. of customer contacts for most recent complete year divided by annual cost that year)
- Effectiveness/performance- please report target and performance for most recent complete year, stating what year. We are looking for data evidencing performance against own targets/key performance indicators (KPIs)/dashboard/outcomes (e.g. call volumes, customer satisfaction scores)
- Are decisions binding on companies?
- What remedies are available?

Again, there was a significant lack of data provided by some schemes in relation to this indicator. Four of the 11 schemes did not provide data on the number of client issues within remit which were resolved. While some provided information on cost per customer contact, 6 of the schemes were unable to do so. No information was collected from 5 schemes about their Key Performance Indicators or their performance against these.

It is a matter of concern that so many schemes are unable to provide such basic data, and there is a clear need for improvement among some schemes in this area. It is difficult for schemes to show that they are efficient and effective without collecting this information.

With 1 exception, scheme decisions are binding on the service provider, if the consumer is in agreement. This is good news for consumers who take their disputes to these schemes. Most schemes offer some possible remedies other than or in addition to a financial award. This is important, as the evidence suggests that, while consumers with a dispute are often seeking financial

recompense, they are often also looking for another remedy such as an apology, or an explanation of what went wrong.[18] A few schemes appear to offer financial compensation only. These schemes may wish to consider whether they should offer additional remedies. Citizens Advice has conducted research into what consumers are generally looking for from their complaints and this could be used as a basis for considering what remedies should be available.[19]

Responsive and future-proof

Outcome: service provided aligns with consumer needs

Performance and compliance indicators:

- Details of unmet consumer needs identified
- Planned service developments to respond to unmet needs
- Percentage of disputes concluded within 90 days of receiving complaint file
- Percentage of cases outside of remit that are informed within 3 weeks of receipt of file

The findings suggest that not all schemes are meeting the ADR Directive's timescales for resolving disputes and handling cases that fall outside of their remit. The ADR Directive requires redress schemes to resolve disputes within 90 days of receipt of the complaint file, and to inform consumers within 3 weeks if their case falls outside the scheme's remit.

Some of the schemes are meeting the 90 day timescale, some comfortably so. Others, however, are not consistently meeting this target, while 3 schemes provided no information on this. While it may be challenging in some instances to meet this target due to resources and/or the nature and complexity of some cases, this timescale is nevertheless a clear requirement on approved schemes. Very little data was collected on compliance with the 3 week target, so it is difficult to say with any certainty whether this target is being met by schemes. Given that compliance with both timescales is required under the Directive, all schemes should be collating this data, and taking steps to achieve full compliance with these targets.

[18] Creutzfeldt, N. 2016. *Trusting the middle man – impact and legitimacy of ombudsmen in Europe*. Available at: https://www.law.ox.ac.uk/sites/files/oxlaw/ombuds_project_report_nc_2.pdf

[19] Citizens Advice, Consumer Experiences of Complaint Handling, 2016

Most of the unmet consumer needs which were identified by the schemes related to process issues, which had mainly been addressed. This suggests that some schemes are making efforts to provide a service which is aligned with consumers' needs. A number of schemes provided no information on this indicator, however. While this could be because there are no unmet consumer needs, it may also be that those unmet needs which do exist have not been identified. The lack of available data, for instance about schemes' consumers, referrals and signposting, and performance against targets, which has been identified above may contribute to this.

Transparent and accountable

Outcome: continual improvement- redress providers' service standards are driven upwards

Performance and compliance indicators:

- What legislation, guidance and/or license conditions underpin your role and companies' requirements to refer to your organisation, if any? If none, please state that this is the case
- Hyperlinks to specific public information about the organisation, including its legal constitution, its governance, funding, methods, cases they deal with and impact (e.g. annual activity reports)

As discussed earlier in this report, there are various areas for concern in terms of performance monitoring, transparency and accountability within some schemes, based on the information provided. It should be noted that some schemes were more transparent than others in the nature and level of information they provided. While, in general, the schemes with legislative underpinning in regulated markets were more transparent, this was not the case across the board. Although there were gaps in the information provided by some schemes in non-regulated markets, others provided better and more transparent information on some issues, such as financial/costs information and KPIs/customer satisfaction scores than some of those in regulated sectors.

Conclusions

The key themes emerging from the analysis are as follows:

Conclusion 8: there are many gaps in the information publicly available about ADR schemes in the United Kingdom.

Many schemes do not appear to collect basic information about matters such as consumer awareness levels, consumer trust, who their consumers are, complaint volumes, referral and signposting volumes, and performance against targets/Key Performance Indicators. This hampers their ability to provide a service that meets the needs of consumers. Consumers are also unlikely to quickly assess the quality and trustworthiness of ADR schemes, as a result of these information gaps. The Ombudsman Association is currently developing a Service Standards Framework, which will require its members to publish key information about their schemes. The issue of data publication and transparency is returned to in the recommendations in chapter 6.

Conclusion 9: on the basis of the limited data available, there appears to be considerable variation in performance between ADR schemes.

This might be expected to be the case, given the differences in statutory contexts, sectors, size, and resources. In general, the bigger, more established schemes with statutory underpinning and greater resources perform better on most measures, particularly the Financial Ombudsman Service. However, it is not necessarily always the case that the situation is better in the regulated sectors. Some schemes in the regulated sectors do not perform as well on some measures as some of the smaller schemes in the non-regulated sectors. While some of the apparent variation in performance may be down to data gaps, it seems likely that there are variations in performance between schemes that require further attention in future research.

4 Consumer experiences of using ADR

Key messages in this chapter

Consumers can find it hard to find an ADR scheme to complain to

Consumers want the ADR scheme to listen to them and provide individual redress

Consumers find the process easy, although they felt that some may struggle

Areas of dissatisfaction with ADR centred on timeliness and the remedy provided

Consumers feel that independence, impartiality, and expertise of ADR schemes are important

This section of the report provides a summary of the data collected during interviews with consumers who have used selected ADR schemes. The interview data provides some insights into the types of journeys consumers may experience when using ADR. This includes how people find out about ADR schemes, what they expect of them, what happens during the ADR process, and how people evaluate their experiences at the end of their ADR journey.

The interview sample

Appendix B provides an overview of the sampling strategy and Appendix C provides a summary of the characteristics of the interview sample. A brief summary of the sample is provided here for ease of reference.

37 consumers participated in the interview research. All data in this report has been anonymised and the names of those interviewed changed. ADR schemes that had been used by participating consumers included: Ombudsman Services: Energy, Ombudsman Services: Communications, the Motor Ombudsman, the Dispute Resolution Ombudsman, the Retail Ombudsman, the Financial Ombudsman Service, the Communication and Internet Services Adjudication Scheme, and the Glass and Glaziers Federation.

The characteristics of participating consumers were as follows:[20]

- **Gender**: More than half (57%) of participants were male, with 43% of participants being female.
- **Age:** Two thirds (62%) of participants were over 55 years of age. Of the remaining participants14% were between 25 and 34 years of age, 3% were between 35 and 44 years of age, and 19% were between 45 and 54 years of age.
- **Occupation:** Most (46%) of participants were retired. Of those who were in employment 30% were in professional and managerial roles, 8% were in skilled and semiskilled roles, 8% were self employed, 3% were unemployed, and 3% were students.
- **Perceived outcome:** Of those whose cases proceeded to ADR one third (30%) got everything they wanted as a result of complaining to the ADR scheme, almost half (49%) got some of what they wanted but not all, and one in five (21%) did not get what they wanted.

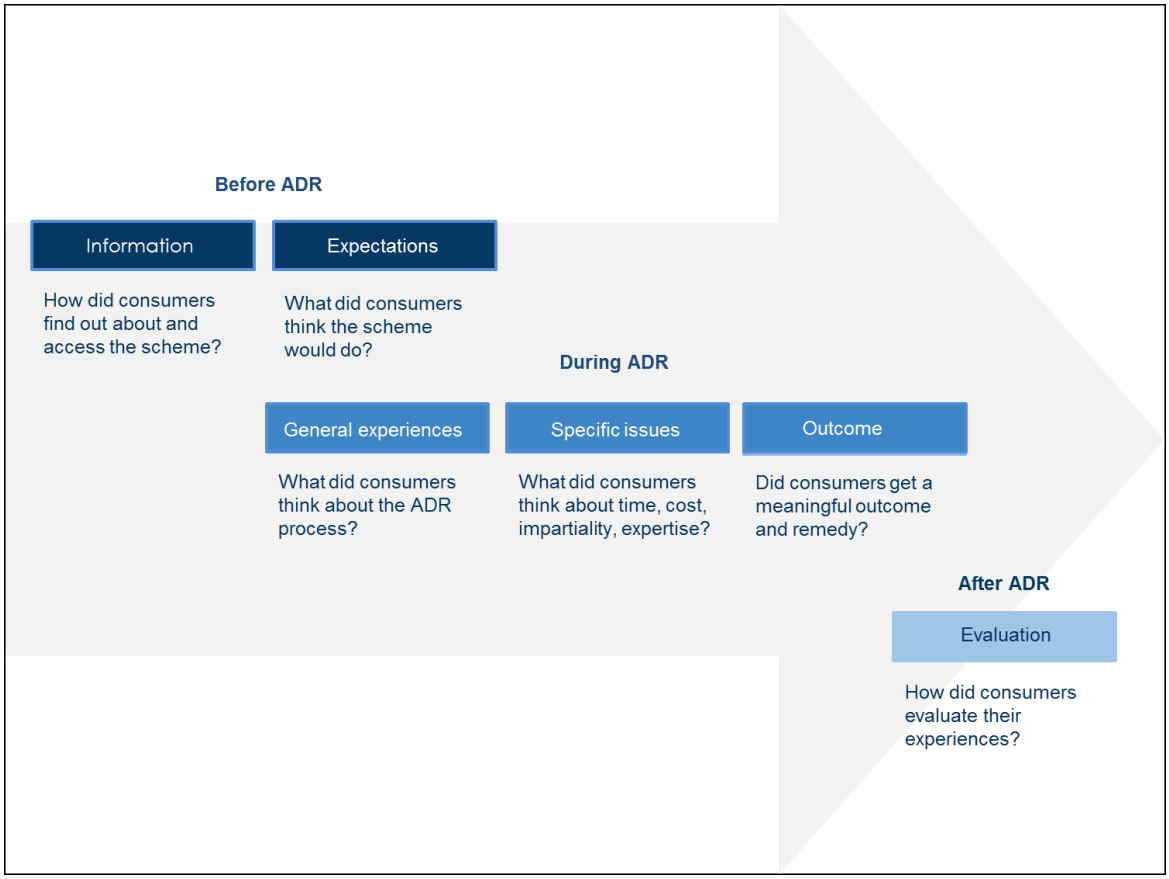
The main limitations of the sample were that certain groups were over-represented and that consumers had only used a small number of ADR schemes. While the data cannot, therefore, provide a full picture of consumers' many and varied experiences of ADR, they do provide some suggestions about the factors that are more likely to lead consumers to have positive experiences of using ADR schemes.

[20] One interviewee declined to give their age or occupation.

Charting the consumer journey

It is helpful to describe consumer experiences of ADR as a journey, which begins when consumers find out about ADR and ends when they have been through the process and reflect on how it was for them. Figure 1 describes the consumer journey and questions posed in the interview. This provides the structure around which this chapter summarises the interview data.

Figure 1: The consumer journey for ADR users



Experiences before using the ADR scheme

Information: how did consumers find out about and access the scheme?

In terms of the consumer journey to the ADR scheme some clear themes emerged. Simply reaching the ADR scheme had been a frustrating experience and for many the journey had been a long one. Many told stories of receiving poor customer experience at the hands of businesses and felt strongly that they had not been treated right.

> "Well, I suppose my initial reference to them was to relieve my frustration and get somebody that I could talk to that would understand what the problem was." (Harry)

Having reached the point where it became clear their complaint was not going to be resolved by the service provider, consumers' journey to the ADR scheme varied. Only a small minority of consumers across different consumer markets remembered being signposted to the ADR scheme by the business. This was despite the fact that signposting to an approved ADR body has been a requirement since October 2015. This is an interesting finding given the number of schemes which told us during phase 2 of our research that signposting was good in their sectors – they assumed that all consumers got to them because signposting was a requirement on members, but this may not always be the case.

> "... the lack of information is, you know, preposterous. Especially from, you know, from companies which are supposed to provide clients with this kind of information, you know." (Teresa)

If they had been signposted by the business, consumers found it relatively straightforward to make contact with the ADR schemes. Otherwise, a number of consumers mentioned how difficult it was to find out who to contact.

> "Yeah, so as far as I'm aware of it at [the business complained about] they hadn't sort of made it explicitly clear, as far as they were concerned it sort of meant what they thought was a suitable resolution and it was kind of a final offer, you take it or your leave

> it sort of thing. So they never really sort of pushed any further forward with letting me know about the Ombudsman in any way. But obviously this was going over many, many months, so I was sort of checking the internet, checking forums like the Money Saving Expert forum to see what people were saying there." (Conal)

Most consumers mentioned the importance of the internet in helping them find out who to complain to and this supports some of the information we were given by ADR schemes during phase 2 of the research. The internet was important not only to obtain contact details but as a mechanism to find out whether an ADR scheme was worth contacting in the first place. Many initial contacts with ADR schemes were also carried out online. Some consumers were signposted by a third party such as Citizens Advice or Trading Standards. However, even where signposted by the business or a third party, the internet remained an important additional source of information.

> "It was relatively easy to stumble across them on the internet and see what they could do as an organisation on their website." (Zach)

Having located the details of a relevant ADR scheme, many consumers commented that making initial contact was then relatively easy. However, when they reflected back on what improvements could be made to make the landscape easier to navigate, many considered that the key issue was finding the ADR scheme in the first place. Once this was known, things became fairly straightforward.

> "I remember trying to find out who it was that I needed to complain to and it wasn't easy to find a contact. I remember Googling it and you're reliant on... I think in the end I went with [the company complained about's] complaint process that had a list of the people that you could contact. The problem being with that is that they listed three or four, I think, I don't know, [organisations] or whatever it is. There were a few people that you could contact but it wasn't necessarily the ombudsman, sort of thing. It wasn't clear. I guess, and it may well exist now because I've not looked for some time now but like a directory of, I want to complain about my gas, electric, phone or whatever, then these are the people that you... these are the ombudsmen that look after those industries would be good." (Andrew)

Expectations: What did consumers think ADR schemes would do?

In terms of expectations, some consumers admitted that they knew very little about what the ADR schemes did and when asked what they expected commented:

> "Very little, actually. I didn't know if they were paid for by government or by industry, so how they're funded, what level of authority that they had, and whether any retailers would even care if they did intervene, you know, or how much bite they had if they tried to enforce things." (Zach)
>
> "Well, I didn't expect anything.... We just hoped that it would get solved." (Fiona)

When consumers did have expectations, they believed that complaining to the ADR scheme would add weight to their case and get the service provider to listen. There was a strong sense that consumers felt they were getting nowhere with the business and they were frustrated with the complaints process.

> "They were just giving me the run-around. I said in the end I'm going to the ombudsman, I told them, and they didn't like that." (Ed)

Some consumers expected the ADR scheme to 'protect the consumer' and to be able to take some form of regulatory action.

> "I expected them to come in and rescue me, that's what I actually expected." (Jenna)

Others expected the ADR scheme to be impartial and consumers talked about how they expected the scheme to 'arbitrate', 'negotiate' or 'mediate' on their behalf. Many consumers had a strong sense that they were right and were hoping to be vindicated externally. In this respect, objectivity on the part of the ADR scheme was important in providing external validation.

> "To be honest, I just thought that they'd probably… that maybe [the business complained about] would sit up and listen a little bit more than what they were to me. I'd given up the will to live with them, to be honest." (Andrew)

> "So I really wanted some vindication that there was an issue, and I wanted them [the ADR scheme], because they have, some authority and powers, I wanted them to actually do something, because sometimes these firms only react to punitive measures, like a fine or a sanction of some sort. They were taking no notice of me, so I thought if it's an ombudsman saying it, they'll have to take notice of the ombudsman." (Lewis)

Expectations were strongly linked with confidence and many consumers who contacted ADR schemes indicated that they were confident that the scheme was going to uphold their complaint. They believed they had a strong case and argued that they would never have contacted the ADR body if they did not believe they would win.

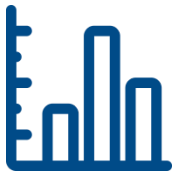
> "I had no, let's say, opinion of whether I thought the [ADR scheme] people would be effective, because I mean I'd only just started, I had no experience to draw on. But I was confident that I had a case, if not I personally can't see the point of going trying to claim something… if you've got a weak case you're wasting everybody's time." (Neil)

Third party advice also appeared to play a role in building consumers' confidence of an outcome in their favour. Being referred by Citizens Advice or Trading Standards or by friends or colleagues were all cited as reasons why consumers were confident and had high expectations in terms of receiving a suitable outcome. Internet forums discussing ADR schemes and previous positive experiences with other ADR schemes were also cited as reasons for feeling confident.

> "I was confident because… I've got it now, I remember. I was confident because… I'd got in touch with the Citizens Advice Bureau." (Isa)

"I was quite confident actually because there was lots of feedback about the ombudsman, I'd been online and read some reviews. I thought, well, if anyone can sort it, they can. I was quite confident, really." (Jack)

Were consumers confident that they would be able to resolve their complaint?



50%

of consumers were confident that they would be able to resolve a complaint to their satisfaction

42%

of consumers were not confident that they would be able to resolve a complaint to their satisfaction

8%

of consumers did not know whether they would be able to resolve a complaint to their satisfaction

Source: YouGov poll of 2,109 UK adults commissioned by Citizens Advice and conducted 14 and 15 March 2017.

Experiences during the ADR process

General experiences: what did consumers think about the ADR process?

Overall it appeared that, having obtained details of who to contact, most people found contacting the various ADR schemes and the processes that followed relatively straightforward. Consumers often commented that it was "easy for me". There was some appreciation that some consumers might find it less user-friendly, but that in their own cases it was fine. Some issues emerged in relation to the balance between phone and email use in terms of how the ADR

schemes communicated with consumers. The importance of complaint handlers demonstrating understanding also emerged as a something highly valued by consumers.

"Easy for me"

A recurrent theme for a number of consumers was that it was "easy for me" to use the ADR scheme because they had kept good records and were quite organised. A number reflected that, if consumers had not been so diligent, it may have been more difficult for them to pursue their complaint with the ADR scheme due to the emphasis they had on written evidence.

> "It probably wouldn't have been [easy] if I hadn't been keeping, sort of, records, notes and letters. But obviously, you know, I think you're going to struggle, then, if you haven't done that, but by the time you come to the ombudsman's service, if you haven't been documenting everything, you're going to... I would guess you're going to struggle a bit." (Ben)

> "If I was a person who wasn't sure of what they were doing, I would imagine it would be extremely hard for them to do it, if you know what I mean. I think they'd have to have somebody else help them. I mean my husband would admit that if he had been on his own, he would not have been able to sort it." (Beth)

"More telephone communication needed"

Consumers indicated that a variety of communication methods were used by the ADR schemes which included online portals, email, and the telephone. The data indicated that several ADR schemes were primarily using email or online tools as a means of communication which suited some consumers very well.

Not all the schemes appeared to encourage the use of the telephone. Even within some schemes the practice varied and some consumers commented that they would have liked to have the choice of speaking to someone more regularly. Those consumers who used the phone commented very positively on how helpful they found it. They felt that speaking to someone gave them a chance to put their side of the story across and reassured them that the scheme was listening.

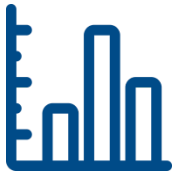
> "Using the ombudsman, it was really easy to, the form, fill it in online and send it back, so it was reasonably easy but you needed the verbal contact with the person as well. However eloquent you are on paper, it doesn't give you a proper picture of what went on, and I felt that I needed to speak to someone who was prepared to listen." (Michael)

> "So I mean at every stage the people who were at the ombudsman were very understanding, about collecting evidence, and the portal I have to say that, the place where you put all your evidence and sort of get a bit of information about what's happening, once I was on that system and sort of registered with my complaint it was a very useful tool to understand what was happening at every stage. So I mean the original telephone call where I was actually giving evidence and explaining the situation they were able to put it into terms that made the case a lot more straightforward... they were able to give me the options of what really I wanted in terms of resolutions, and able to put it into layman terms" (Conal)

One consumer complained that the only way to contact the scheme was via a premium rate phone line. The scheme in question appears to have now changed its policy in that regard although a number of consumers of this scheme also commented that phone contact was not encouraged. Phone contact was valued by a number of the consumers interviewed because it helped make contact easy. Not all consumers were able to use a computer and they needed help to make a complaint.

> "I love talking to people but I don't use the computer so my husband has to do it all... so it's a bit impersonal really isn't it?" (Fiona)

How would consumers prefer to resolve their complaint?



43%

of consumers would prefer to resolve a complaint online

22%

of consumers would prefer to resolve a complaint face to face

20%

of consumers would prefer to resolve a complaint over the phone

Source: YouGov poll of 2,109 UK adults commissioned by Citizens Advice and conducted 14 and 15 March 2017.

"Being understood"

Feeling that the person handling their complaint in the ADR scheme understood their problem was important to consumers and this manifested itself in a number of ways. Consumers wanted to feel that they were not being a nuisance or complaining over nothing and that the ADR scheme understood why they were complaining – even if the complaint was not going to be in upheld in the end. Many consumers commented positively on this aspect.

> "She made me feel as though she understood what I was saying, and had some empathy really and sympathy. And I think..., I've been around long enough to know that... what people tell you isn't always what they're thinking. And so I listened and was encouraged by what she was saying to me, and she did sound as though she was going to be fairly thorough about it all. And so to that extent, I thought she was going to deal with it properly and down the line, and be impartial, and if I was wrong, she was going

to tell me." (Harry)

"I think that's definitely one of the positives of the whole procedure that from the moment I got to that complaint stage where I was able to give my case and to give evidence, you know, they didn't say it in such a way that showed that they were on the consumer side, but certainly they were able to give some reassuring words and sort of be understanding and give their knowledge of past experiences to reassure me that I'm not just complaining over nothing effectively, that it was worthwhile me giving my input and going all the way with the complaint." (Conal)

Unsurprisingly, consumers whose complaints were not upheld expressed frustration that their complaint had not been well understood. Understanding what they wanted from their complaint was linked to the way in which the ADR scheme managed expectations. Some commented that if the complaint handler had understood the complaint better then their expectations could have been managed better. In some cases, consumers had contacted the scheme in the expectation of receiving a particular outcome, such as compensation for distress and inconvenience or a more regulatory form of action. They found out at the end of the process that this was never going to be possible. These consumers thought that the scheme could have done more at an earlier stage to manage their expectations and advise that a particular remedy was not going to be possible.

"Because it was partly to do with managing my expectations, I think, as much as anything. It's like, oh, so there were some rules, then, that we were all operating by, but I didn't know those rules." (Ben)

"Honesty. If they can't do anything, they can't do anything. And that's fine. If they can't do anything, just tell people. If their outcome is going to be, whatever the law of the land is, then just tell them the law of the land." (David)

"Again just frustrated because I just didn't think they were listening or explaining to me, you know I mean they could have very early on said… you could take it straight to [a regulator] if that's what it

was." (Eva)

Specific issues: what did consumers think about expertise, impartiality, timeliness, and cost?

Consumers were asked about a number of specific issues as part of the interviews, and the data they provided is summarised in this section.

The expertise of ADR staff

Understanding and expertise were often linked. In terms of expertise, consumers generally recognised that a combination of good people skills, communication skills, and industry knowledge were required. Knowing that the complaint handler had dealt with the situation before was important in building confidence. Those consumers who felt that expertise was poor commonly felt that the complaint handler lacked sufficient technical expertise and did not understand what their complaint was really about. These comments mainly related to a single scheme where the product was particularly complex. Consumers across all sectors thought some technical expertise was important.

> "Yeah, absolutely, I was concerned that maybe [the business complained about] would then come back and sort of argue another way and try and sort of trip me up, sort of thing, or whatever. But it certainly felt like in terms of the ombudsman they were very knowledgeable, very reassuring and knew what they were talking about, and you know, you do feel like for the first time in that 6-month period or whatever it might be, that someone was sort of understanding that and sharing some knowledge about effectively the law to make me feel like my complaint was warranted." (Conal)

> "I think you need to be extremely well-trained to understand the needs of the client, to understand how to deal with the procedures, I think in effect, and to understand the person itself. I mean, you deal with possibly a wide range of individuals coming from different backgrounds and you need to be aware of their understandings, you need to be aware of, I don't know, their skills, overall, and you know, their ease of dealing with ADR schemes. Because not everybody is as used to dealing with ombudsman

schemes or with ADR schemes generally speaking." (Teresa)

> "I'd expect them to have a background in the industry that they're dealing with... and ideally have a background in customer and consumer advice, certainly in a service, because it's no good just having someone from the industry, I mean, I don't think you'd have confidence in that." (Lewis)

One issue that emerged from some consumers was how variable people's experiences could be even within the same scheme. Consumers from the same scheme sometimes told very different stories and their experience therefore appeared to be very dependent on the approach of the individual complaint handler. This came out strongly in 1 interview where the consumer had experience of using one scheme 3 times. Overall he was very positive about the scheme even though they only upheld one of the three complaints. However, he also talked about his experiences as being a bit "hit and miss" and was much more negative about 1 of his experiences.

> "I think it's the beauty of the service that despite the ruling against me I have absolutely no complaint. I guess the person who handled it because he was thoroughly... he was exceptional. He would talk, discuss, make things clear and... he was able to show me a perspective which I'd missed. The other complaint that we had, we must have hit a very bad agent dealing with matters at the [ADR organisation] because that never got resolved." (Dev)

The impartiality of the ADR scheme

Most consumers commented positively on the impartiality of ADR schemes. Consumers' expectations in relation to this were, however, quite complex. While most said they did not expect the scheme to be pro-consumer and understood the need for them to be objective, they were also looking for the schemes to help them with their complaint. This was particularly the case at the start of the complaint. For consumers, impartiality was demonstrated by a variety of factors including complaint handlers listening to both sides of the argument. Having their complaint validated by an independent and impartial body was important to consumers. Consumers therefore wanted the ADR scheme to be both impartial and supportive.

> “I think it did feel like they were almost on my side to start with, but I would say that at every part of where I’d given evidence they were always referring back to say, well, this is dependent on what [the business complained about] come back with, and obviously we’ve got to rely on their evidence before we can seek a judgment. So although they were reassuring during the stages where I was giving my evidence, they always had that caveat that they still need to hear the other side of the argument. So I think they were fair about it, but also it felt quite reassuring some of the terms and words they used.” (Vanessa)

> “I didn't know what the result was going to be, but, you know, when I had this telephone conversation with the lady at the service, she understood what I was saying and realised that there was something going on that wasn't right. And that gave me confidence that she was going to deal with it properly. Now that didn't give me confidence that she was going to come down on my side, because you're never confident until you get there are you.” (Harry)

Some consumers, whose complaints had not been upheld, did not feel that the scheme was impartial. Sometimes this was because consumers expected the ADR scheme to take more of a pro-consumer stance. In other situations, it was because they perceived the ADR scheme to have taken sides.

> “I think, rather foolishly, it was my assumption that they are there to protect, in any way that they can, protect the consumer. But from my own personal experience, I would say that the outcome has been that they have been totally biased towards the people that pay their wages, basically.” (Rosa)

> “The gentleman I was speaking to, sounded like almost word for word, exactly what [the business complained about] was saying. Almost sounded like, they’re having a big conversation just before they rang me. And he was just basically repeating everything the woman in the office was saying. I think they were very pally. I think they work together quite regularly and they were quite happily

having a working relationship. It didn't sound like the ombudsman was there to say to [the business complained about], you're not playing fair." (David)

The timeliness of the process

There were mixed comments about how long the process took. Some consumers were pleasantly surprised at how quickly their complaint was resolved. However, consumers generally thought complaining to the ADR scheme took too long and tended to mention it even when expressing overall satisfaction with their experiences.

> "I thought the whole process was very fair and understanding, very reassuring, and obviously the solution superseded what I was expecting. Maybe it might have taken slightly longer than I'd expected but I think in terms of the outcomes it was worth going through, absolutely." (Conal)

> "Very good, you know, it couldn't have been better, it couldn't have been better… It was just the actual time from when I had dealt with them to the end-product type of thing, it takes a long time and I don't think it could have been hurried up to be quite honest." (William)

Some consumers mentioned that there had a been an initial delay in dealing with the complaint. Many consumers had long journeys to reach the ADR scheme in the first place and therefore found this delay frustrating.

> "I went onto the website, filled an initial sort of enquiry, and then waited for them to come back to me, which I think was about 6 to 8 weeks, I think they recommended a 6 week wait, but it was transpiring that they were incredibly busy, or that's what they said, they were very busy. But I did have to keep on at the telephone to try and get a bit more of an understanding of what was holding them up because I guess given that it was kind of 6 months on from when I originally signed up I was still being charged quite a lot of money, didn't really have the discount that I originally wanted, so it was kind of an anxious situation where you really

want to get to the bottom of it and get it resolved as quickly as possible." (Conal)

Consumers understood that the delay was due to the volume of complaints some of the schemes were receiving. Some also noted that the delay in the investigation time was often put down to the time taken to get the businesses to respond. Some thought that ADR schemes gave businesses too much time in that regard, although some consumers noted that there was a balance to be struck between ensuring that the scheme took enough time to investigate the complaint appropriately and taking too long. Overall, the general perception was that the process was on the long side.

"It is what I was expecting, you know, no more, no less. These things, you know, you don't get an answer to your problem overnight, and it takes time. But, you know, quite honestly after having problems for 3 years, I think... it took about... 3 months from start to finish. And as I say, after 3 years, you know, that was a drop in the ocean." (Yvonne)

"It was slightly too slow, in that I didn't feel it was reasonable to give [the business complained about] so much time to decide whether they accepted the remedy or not, given that the ombudsman and [the business complained about] had obviously been in dialogue before that point, in order that the ombudsman had reached their conclusion. I didn't understand why, then, why then [the business complained about] were allowed another several weeks to decide whether they accepted all that." (Ben)

"It's just such a long process to go through. I know they've got to do time frames and everything, but I can see why people don't bother." (Gabriella)

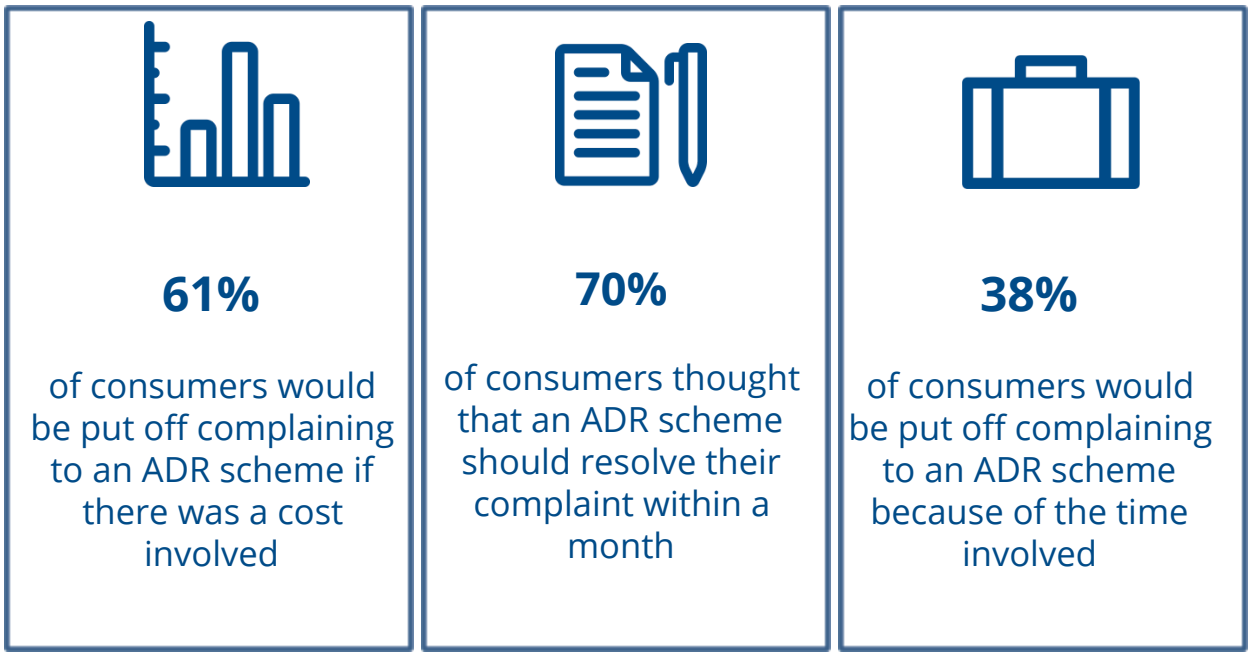
The cost of accessing an ADR scheme

The fact that ADR schemes were free to use was undoubtedly an important factor for consumers. Some mentioned the relatively low amount of their claim. Others said that if there was a charge they would have gone to a solicitor or used the small claims procedure. Some felt that it was an integrity issue and that

they did not expect to pay for an ADR scheme. Despite this, a surprising number of consumers indicated that if there had been a modest fee for using an ADR scheme, they would have been prepared to pay it. All of these consumers' complaints had been upheld and all felt from the start that they had a very strong case. Now that the scheme that used a premium rate phone line has stopped that practice, the only additional costs identified were time, photocopying, and postage costs.

> "If there had been a modest charge then personally I would have paid it because I thought that I was in the right." (Neil)

> "So, you know, if it had been a nominal cost, I wouldn't have shied away from that really. But if the costs were going to be exorbitant - and that's a sort of subjective thing, isn't it - but if they were going to be high and getting close to what it would cost me to take some other form of action, then I'd have thought about it twice, I suppose." (Harry)



Source: YouGov poll of 2,109 UK adults commissioned by Citizens Advice and conducted 14 and 15 March 2017.

Outcome: Did consumers get a meaningful outcome and remedy?

This part of the report examines the issues of outcome and remedy. Generally, there was a relatively high level of dissatisfaction relating to remedy and this was the area that received the greatest number of negative comments from consumers. Before going on to consider these issues, some context is useful. It should be remembered that approximately 30% of our sample got everything they wanted as a result of complaining to the ADR scheme. A number of these consumers reported their delight in being awarded higher than expected compensation and receiving it very quickly (in 2 cases within 48 hours of a decision being reached). 21% of consumers in our sample did not get what they wanted and, unsurprisingly, their comments were much more negative. 49% got some, but not all, of what they wanted and the comments of these consumers were particularly interesting in terms of identifying key drivers of dissatisfaction.

The first theme that emerged was that dissatisfaction was not confined to those whose complaints had not been upheld by the ADR scheme. Even consumers whose complaints had been upheld and for whom the ADR body recommended some form of remedy expressed dissatisfaction when they did not get everything they had wanted. Dissatisfaction with the amount or type of compensation offered focused around a few areas. Particular dissatisfaction was expressed with compensation offers that included a credit note or credit against an account.

> "The suggested resolution was to provide me with a £100 credit to the account. Well, at that point, it was like, well, that's fairly pointless because the accounts been closed. So even though the resolution was to give me this credit and a letter I never actually received either.." (Grant)

> "Not cash, not cheque, only a voucher..., which I thought again was pretty poor." (Lewis)

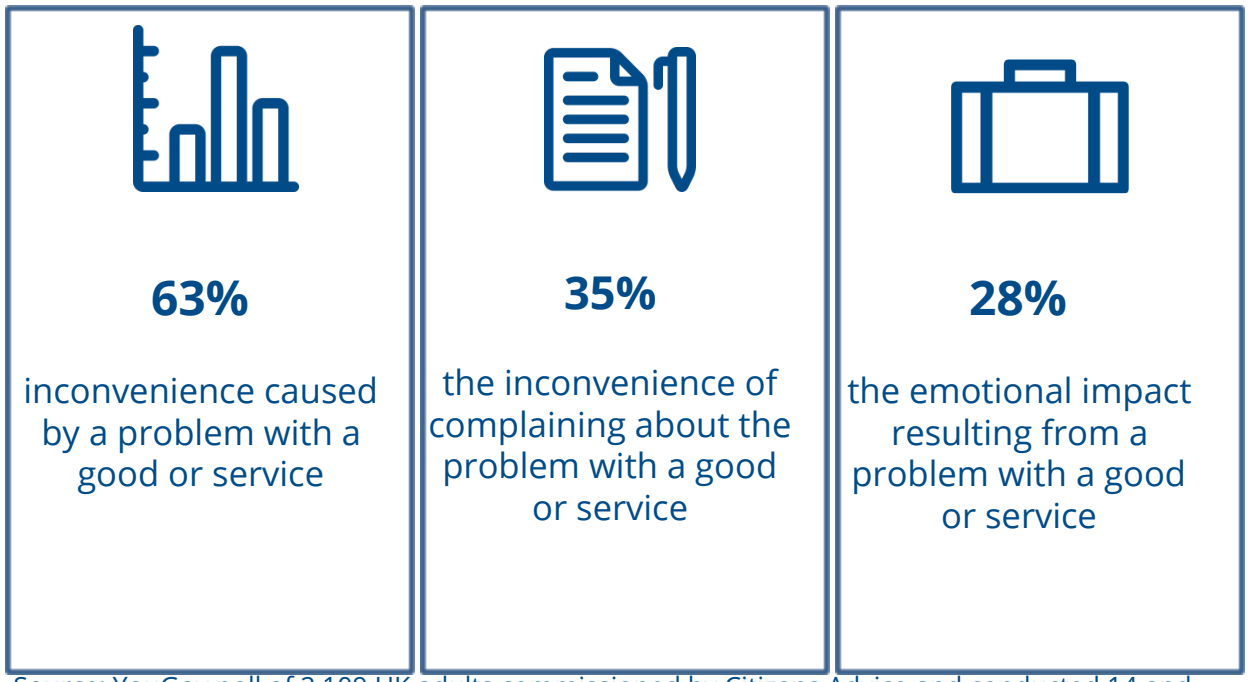
Other comments questioned how the ADR scheme decided what compensation was appropriate and how compensation for distress and inconvenience was calculated. A few consumers commented that they would have liked an apology from the business complained about and either did not get one or received a poor one. Others said that they did not feel there was any room to negotiate

and the offer from the business was presented as the only option.

> "They never before explained what they would be taking into account. So it was, kind of like: 'Well now we've reached a conclusion and come to a sum; we'll now tell you what we based it on.' But I felt they should have told me that before, what factors they would be looking at in coming to their decision." (Ben)

> "....basically I was badgered into agreeing to something I was clearly not happy with because she said, this is all we can do and if you don't accept it that's it." (Jenna)

What did consumers think they should be compensated for?



Source: YouGov poll of 2,109 UK adults commissioned by Citizens Advice and conducted 14 and 15 March 2017.

A notable finding of the interview research was that consumers who were not happy with the remedy offered generally gave up rather than seeking to challenge the ADR scheme's decision. They talked about the fact that they "just wanted the whole thing over" and had reached "the end of their tether" or they had too much "hassle with the whole thing". They did not go back to the ADR

scheme to let them know that they were unhappy with the remedy. There appeared to be, therefore, potential for a disconnect between the ADR scheme's perception of a customer's satisfaction with the outcome and that of some consumers.

> "I just left it at that point. I thought, well, I've gone on backwards and forwards long enough. From start to finish it was probably about 4 months and this is their suggestion they came up with. I thought, well, you know, they've done a good job up to now but [the suggest resolution] is a bit pointless… but, oh, well, you know, I can't really be bothered to carry on chasing this down." (Grant)

> "Well, it was not acceptable but I was just fed up with it going on and on and on. By the time it was going on we'd have finished paying for them, so, there was nothing more I could do really." (Ann)

> "They accepted what I'd said, and they said you're going to get no further. If that's upholding my complaint, no, they didn't uphold it. My complaint was it was unreasonable and I wanted some money back. I got some money back from the supplier, but it was a paltry amount. I wanted more because of the hassle and the inconvenience and the time. That's really what I wanted." (Aaron)

There were also some problems reported with consumers not receiving the remedy in a timely manner. Some consumers commented that the ADR organisation failed to follow up sufficiently on this. In 1 case, for example, the ADR organisation closed the complaint having taken the word of the service provider that the consumer had accepted a remedy when that was not the case. Despite the fact that these consumers had not received an agreed remedy, they too did not necessarily go back to the ADR scheme to challenge this.

> "Well, the ombudsman has closed it now …, and I keep ringing the ombudsman saying it hasn't been resolved and they say, yes it has been resolved.., but [the company complained about] were supposed to send me a letter of apology and a token £100 compensation and to wipe out the bill." (Isa)

In terms of asking for a decision to be reviewed if they were not happy with the outcome, consumers were very unclear about whether this was possible or not. In a number of cases it appeared that this may have been possible, but the consumers chose not to go down that route.

More generally, consumers often could not remember if they had been told they could ask for a decision to be reviewed. A few commented that they felt that there was no point in asking for the complaint handler's decision to be reviewed, since the complaint handler had indicated that the decision was unlikely to change. Those who asked for a decision to be reviewed had mixed experiences – in some cases the decision of the complaint handler was overturned and in others not.

> "And then we finally got a decision from... and I don't know what her title was, a lady that works for [the ADR scheme] and they declined our reasons for claiming and saying we were not entitled to anything. There was sort of an addition at the bottom of the email that said, you can take this to the ombudsman, however please note that unless you supply further evidence to support your case, your contribution, it's unlikely that the outcome will change, which I thought really was totally biased, because, you know, it's all well and good to say if you feel you want to submit it then please advise them and we'll do so on your part. I didn't think there was any need to say that please be advised unless you can put additional supporting evidence, everything... nothing will change. I think that is not impartial." (Rosa)

Experiences after using the ADR scheme

This section reports on how people evaluated their overall experience at the end of using the ADR scheme.

Even if some consumers were not totally satisfied with all aspects of the way the complaint was dealt with or with the outcome they received, those who had their complaint upheld felt strongly that complaining to the ADR scheme had made a difference and that without their help their complaint would not have been resolved.

> “And it wouldn’t have been, I feel, without the ombudsman service. I truly believe that, I think [the company complained about] would have absolutely, totally, ignored and blanked me for evermore. So, without the ombudsman service I really don’t know what I would have done.” (Yvonne)

> “No, it was because of the ombudsman. I’m absolutely… to be fair to the ombudsman service, I’m absolutely convinced it was due to their intervention. I was making no headway at all with [the company complained about] over that matter….” (Ben)

> “I wouldn't have got my cheque back if it hadn't been for the ombudsman, definitely I would not have got it back, that is a surety.” (William)

Some admitted that they initially had low expectations of what the ADR scheme was going to be able to do and, therefore, were pleasantly surprised by the process and the outcome. This related both to the depth of the investigation, the process used, and the fact they thought they had been treated well by the complaint handlers. Some consumers were very satisfied with what took place and indicated that they would be very happy to use similar schemes again.

> “Well, I guess it’s more a case of with these sort of providers, as I say, I imagine there’s people complaining all the time and I imagine the ombudsman is pretty swamped with trivial complaints. For an individual person it’s an important complaint but maybe in the grand scheme they’re all fairly trivial and I assumed that they just maybe acknowledge your complaint, raise it with the supplier and that would be pretty much it but there was actually a very thorough investigation so that did surprise me, I guess. Initially I thought, well, it’s going to be very, very bureaucratic.” (Grant)

In terms of dissatisfaction, those consumers who had received a less favourable outcome indicated that they had found the whole process stressful and were very upset.

> “Yes, it was frustrating, it was, to a certain extent, stressful. At the end stages where the ombudsman said, no, I'm doing nothing, you have the right to appeal, and I appealed and, no, I'm going to stick with my decision, blah-blah, I can't see anything wrong with [the issue complained about]. At that stage, you know, my feelings were really stressful, a lot of upset, very disheartened. I thought, you know, what is the point?” (Michael)

> “I was going to say, in a lot of respects, it makes a person feel meaningless and just really, you know, that there is no point to pursuing it.” (Rosa)

They felt strongly that the ADR scheme had not fully understood what the problem was and expressed shock and surprise that the outcome had not been in their favour.

> “ Then I, because I was so shocked at the actual response in terms of but this hasn’t answered my question at all or my complaint, so I… then we went back and forth for quite a while and she was very, you know, she would respond very quickly, but it remained unsatisfactory.” (Eva)

> “The ombudsman needs to go or be completely changed, in my opinion. It’s just… I think, overall it was between 9 and 11 weeks, my whole waiting for the ombudsman to do something. And for him to come back with what I knew I could have had 11 weeks ago, just hit me over the head. (David)

Interestingly, both satisfied and dissatisfied consumers recognised that, if the outcome had been different, then their overall satisfaction would change. Those whose complaints were upheld reflected that losing their case would have been quite hard to accept as they believed that they had a strong case and had been awarded the “right compensation”. They would have wanted a clear explanation of why their complaint was not being upheld. Some hoped that they would remain happy with the process.

> “If it wasn’t ending well for me, probably I would need to receive evidence why it wasn’t, why the offer wasn’t there or why they weren’t willing to accept their fault. But since I didn’t receive that, I

> can't really answer this question because I don't know what would be the next step from the ombudsman side if my case wasn't solved the way I wanted. So I don't know if there is any follow-up, for example, explaining why you didn't receive any compensation, you know?" (Vanessa)

> "I probably would, yes. Although all I can say is that, having some knowledge of contractual issues, I was pretty clear that I'd got a case. If they'd have turned around and said, no, you haven't got a case, I would have been very surprised and I would have needed to know in a lot of detail why I hadn't." (Harry)

In terms of receiving an explanation, the data suggested that not all consumers felt they received an adequate explanation and more could have been done in regard to this.

> "Yes, they did give an explanation, but if you take that in line with the account that I've given you of what was happening, it didn't satisfy, in the final event, in the outcome." (Oliver)

Some consumers, all of whom had had their complaint not upheld, indicated not only that they would they never use the ADR scheme in question again, but also that they would never use any other ADR scheme. These consumers found the process stressful, did not feel that they ADR body had understood their complaint, and did not get the outcome they wanted.

> "Well no, as I say, I thank you that, but as I say, it's taught me a valuable lesson. I'll never, ever again go down that route. And really, I suppose, for the industry, that's sad, you know, that people think that way and court systems will clog up and things like that, but it's just, you know, it's just the way. I think the whole thing was based on... really the perception that I got was we've too much work on, we haven't got enough caseworkers, we'll get to it when we can, and then when they get to it, it's here's the decision. If you don't like it you can do this, but just to let you know, it's not likely to make a great deal of difference. And then it goes to your final decision and it's... oh, well, we've looked at it but in this instance the [company complained about] can do what they want." (Rosa)

Others indicated that, while they hoped that they would never have to, they definitely would not let the experience put them off using other ADR schemes even if they would not use that particular scheme again. They pointed out that the "expense of going elsewhere" (Oliver) left them with few real other options anyway. As long as ADR schemes remained free, another commented he would use them again.

> "Oh, right. No, no, it definitely wouldn't stop me. As I said to you in an earlier answer, I would have to be sufficiently riled up, because I now know what I would have guessed, which is that it was still a very long process, and you have to have all your documentation lined up and be prepared to be very patient and persistent, so I wouldn't do it unless I was sufficiently strongly motivated enough." (Ben)

Conclusion: what do consumers want from ADR?

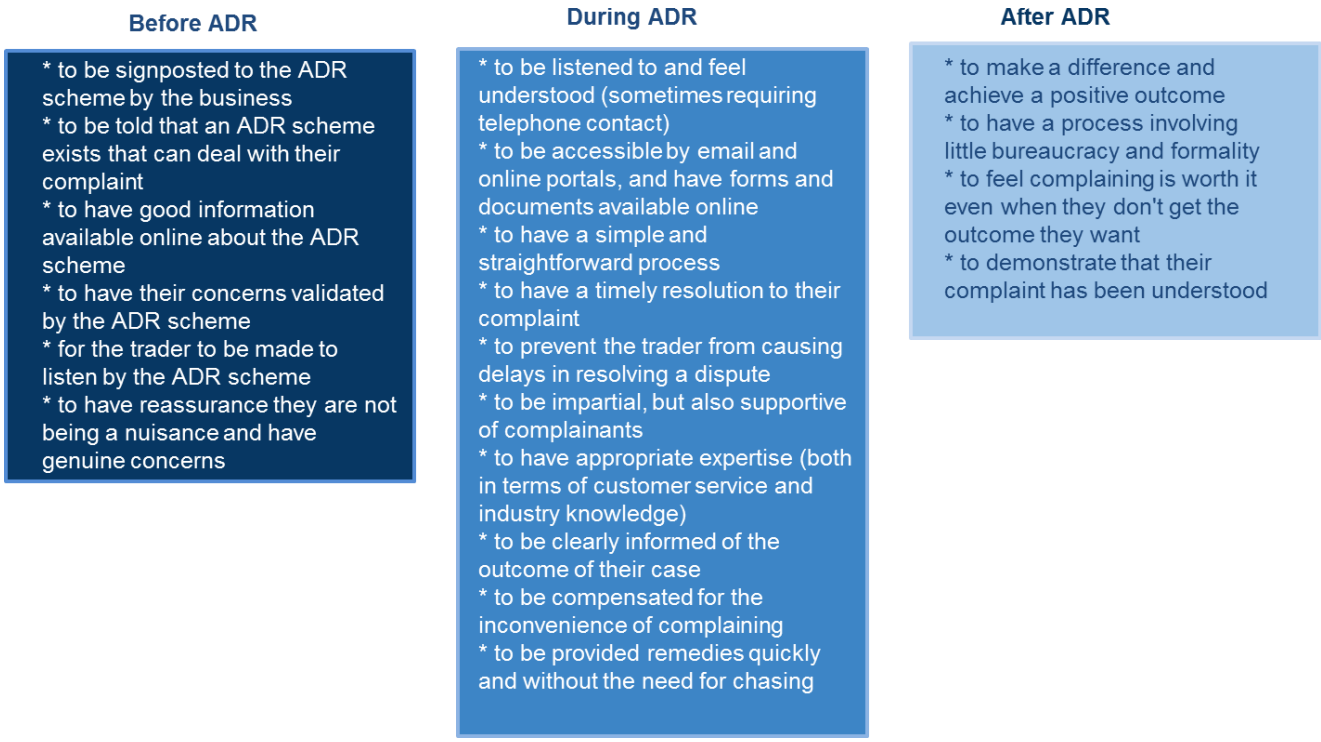
In bringing this section of the report to a conclusion, we consider that the most helpful way of describing the key messages from the consumer data is by extrapolating what consumers seem to want and expect at each stage of their consumer journey. This is done visually in figure 2 over the page.

In addition, a number of key conclusions can be drawn from the consumer data.

Conclusion 10: Finding an ADR scheme which can deal with the complaint can be time consuming and businesses could do more in relation to this.

There was a strong feeling that, once a consumer identified an appropriate ADR body to deal with their complaint, contacting them was relatively straightforward. The difficulty for most people was finding out about them in the first place. Signposting by the business was seen as particularly helpful. The internet was seen as an important source of information not just to help identify an ADR body but to find out more about what they actually do. Consumers felt more confident when approaching ADR bodies if they had been clearly signposted.

Figure 2: what consumers want and expect from ADR



Conclusion 11: Consumers' expectations focused around obtaining an individual remedy and getting a business to listen.

Most were frustrated with the attitude of the business and wanted to know that they were not being a nuisance and had legitimate cause to complain. They thought complaining to ADR would make a difference. Having their experiences validated by an impartial independent body was seen as important. Some consumers expected the ADR body to be able to act on their behalf.

Conclusion 12: The process was generally seen as a strength but some consumers would welcome more telephone contact and there was concern that, while the process was "easy for me", others may well have struggled.

Email and to some extent online portals were widely used and most consumers found the process straightforward to use overall. Telephone contact was viewed as really important for ensuring that the ADR organisation understood fully what

the complaint was about. It was felt that reliance on written documentation may disadvantage some consumers.

Conclusion 13: Dissatisfaction focused around time and particularly outcome.

Time was seen as important by many consumers and, while they understood that investigating a complaint took time, they resented time delays at the start and those which they put down to the business being complained about. In relation to outcome, consumers often accepted an outcome even though they were not happy with the remedy offered. At this point they gave up pursuing their complaint any further. Consumers' expectations in relation to remedy included being compensated for the inconvenience of needing to complain to the ADR organisation in the first place. Receiving a satisfactory explanation of how the decision was reached was also important to them. Consumers on both sides of satisfaction recognised their overall satisfaction would change depending on the outcome offered.

Conclusion 14: The independence, impartiality and expertise of schemes was seen as very important by consumers.

Impartiality was seen as really important as consumers looked for their complaint to be validated. There was an interesting tension between being impartial and the fact that consumers expected to be helped. Understanding a consumer's complaint was linked with expertise and impartiality. Consumers expected complaint handlers to have both good interpersonal skills as well as some knowledge of the relevant industry.

5 Conclusions

This report has sought to do 3 things:

- Provide an up-to-date map of the UK's ADR landscape;
- Provide a comparative analysis of selected ADR schemes; and
- Provide an insight into consumer experiences of using ADR schemes.

This chapter summarises our conclusions in each of these areas.

The ADR landscape

The report reached 8 conclusions in relation to the overall shape of the UK's ADR landscape.

Conclusion 1: the number and scope of ADR schemes has increased, but gaps clearly remain.

The ADR Directive has led to an increase in the number of ADR schemes and coverage is better than it used to be. However, gaps still remain. As not all businesses are required to join an ADR scheme, it is clear that consumers remain without access to ADR in some consumer sectors.

Conclusion 2: in regulated sectors, the ADR landscape is likely to be confusing for consumers where multiple schemes operate.

There are some regulated consumer areas (such as communications and property) where several ADR schemes are in competition with each other. This may be confusing for consumers who do not easily know which ADR scheme is able to deal with their complaint.

Conclusion 3: the ADR landscape in non-regulated areas is complicated by overlaps in schemes.

In non-regulated areas, the potential for confusion is even greater with some sectors, like home maintenance and improvement, having a very large number of ADR schemes available. As well as gaps in ADR provision, therefore, there are

also overlaps.

Conclusion 4: the current ADR landscape is not based around the needs of consumers.

Consumers' problems cannot easily be fitted in to the existing jurisdictions of ADR schemes (e.g. a consumer buying a home may face problems with an estate agent, mortgage lender, financial adviser, surveyor, and lawyer). The current ADR landscape does not reflect how people experience problems in practice.

Conclusion 5: in non-regulated areas the lack of mandatory ADR leaves consumers without access to redress.

In non-regulated areas, because businesses get to choose whether or not to participate in ADR, this leaves at least some consumers without access to ADR. Areas where businesses choose not to sign up may be those where consumers are most likely to require independent dispute resolution to resolve their problem with a business.

Conclusion 6: in non-regulated areas, the current approach favours business interests by allowing them, rather than consumers, to choose which ADR scheme (if any) they wish to participate in.

In non-regulated areas, even where businesses are signed up to an ADR scheme, consumers may be disadvantaged by the fact that the business gets to choose the ADR scheme and the types of process to be used. Consumers have to go with the option the businesses have signed up to and business may select ADR schemes on the basis of price rather than quality.

Conclusion 7: overall, the ADR landscape is more complex and confusing than ever before.

While the Consumer ADR Directive has increased the number of schemes available, with the potential to provide redress in areas where none previously existed, this has also led to further complexity and confusion. Simplification and rationalisation of the landscape is required.

Comparative analysis of selected ADR schemes

Conclusion 8: there are many gaps in the information publicly available about ADR schemes in the United Kingdom.

Many schemes do not currently appear to collect basic information about matters such as consumer awareness levels, consumer trust, who their consumers are, complaint volumes, referral and signposting volumes' and performance against targets/KPIs. This hampers their ability to provide an efficient, effective, and integrated service that meets the needs of consumers.

Conclusion 9: on the basis of the limited data available, there appears to be considerable variation in performance between ADR schemes.

This might be expected to be the case, given the differences in statutory contexts, sectors, size, and resources. In general, the bigger, more established schemes perform better on most measures, particularly the Financial Ombudsman Service. However, it is not necessarily always the case that the situation is better in the regulated sectors. Some schemes in the regulated sectors do not perform as well on some measures as some of the smaller schemes in the non-regulated sectors. While some of the apparent variation in performance may be down to data gaps, it seems likely that there are variations in performance between schemes that require further attention in future research.

Consumer experiences of using ADR schemes

Conclusion 10: Finding an ADR scheme which can deal with the complaint can be time-consuming and businesses could do more in relation to this.

There was a strong feeling that once a consumer identified an appropriate ADR body to deal with their complaint that contacting them was relatively straightforward. The difficulty for most people was finding out about them in the first place. Signposting by the business was seen as particularly helpful. The internet was seen as an important source of information not just to help identify an ADR body but to find out more about what they actually do. Consumers felt

more confident when approaching ADR bodies if they had been clearly signposted.

Conclusion 11: Consumers' expectations focused around obtaining an individual remedy and getting a business to listen.

Most were frustrated with the attitude of the business and wanted to know that they were not being a nuisance and had legitimate cause to complain. They thought complaining to ADR would make a difference. Having their experiences validated by an impartial independent body was seen as important. Some consumers expected the ADR body to able to act on their behalf.

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Email and to some extent online portals were widely used and most consumers found the process overall straightforward to use. Telephone contact was viewed as really important for ensuring that the ADR organisation understood fully the complaint was about. It was felt that the reliance on written documentation may disadvantage some consumers.

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Time was seen as important by many consumers and they resented time delays at the start and those which they put down to the business being complained about. In relation to outcome, consumers often accepted an outcome even though they were not happy with the remedy offered. Consumers' expectations in relation to remedy included being compensated for the inconvenience of needing to complain to the ADR organisation in the first place. Consumers on both sides of satisfaction recognised their overall satisfaction would change depending on the outcome offered.

Conclusion 14: The independence, impartiality and expertise of schemes was seen as very important by consumers.

Impartiality was seen as really important as consumers looked for their complaint to be validated. There was an interesting tension between being impartial and the fact that consumers expected to be helped. Understanding a

consumer’s complaint was linked with expertise and impartiality. Consumers expected complaint handlers to have both good interpersonal skills and some knowledge of the relevant industry.

6 Recommendations

Flowing from the conclusions in chapter 5 above, we make 6 recommendations.

Recommendation 1: mandatory ADR should be extended across all consumer sectors

Despite the introduction of the Directive on Consumer ADR, significant gaps continue to exist where businesses choose not to sign up to an ADR scheme. We propose, therefore, that the government should adopt the principle that participation in ADR should be mandatory across all consumer sectors. While this may lead to fears from some businesses that the system will be abused (particularly where disputes are low in value or complainants are exhibiting vexatious behaviour), the benefits in ensuring accessible redress and enhancing consumer confidence are significant.

We propose that the starting point should be that ADR is mandatory and free to the consumer, regardless of the sector involved or the value of the claims consumers are making. This should be monitored and reviewed if credible evidence emerges that the system is being abused. There are certain areas that may require special attention in relation to this recommendation. This includes the private rented sector, where the relationship between buy-to-let landlords and tenants is different in some respects to more mainstream consumer-business relationships. Similarly, some further thought may be required in relation to consumer-to-consumer transactions.

Recommendation 2: in regulated sectors, ADR should be limited to 1 provider in each sector.

In some regulated sectors, there are currently multiple ADR schemes permitted to operate. This can be confusing for consumers and adds to the complexity of the ADR landscape. In regulated sectors, it is particularly important that the different actors (regulator, consumer advocate and ombudsman) work closely together. Therefore we recommend that there should be only one ADR provider per sector. This will help to avoid consumer confusion and make it easier for regulators and consumer advocates to work with the ADR provider. For example, if all complaints go to only 1 ADR provider, it will be easier to spot trends in complaints and to understand where consumers are experiencing problems. The potential benefits of competition in terms of raising standards can be

maintained by regularly inviting tenders for the contract to provide the ADR scheme.

Recommendation 3: in non-regulated sectors, BEIS should take steps to make the ADR landscape easier for consumers to navigate.

One of the strongest findings in this report (and one which has often been made in previous research) is that the ADR landscape is complex, patchy, and confusing. The government should, therefore, take steps to make the ADR landscape easier for consumers to navigate.

In non-regulated areas, particularly if ADR becomes mandatory, we recommend that the Department for Business, Energy and Industrial Strategy work with industries and key stakeholders to make ADR more user-friendly. As a minimum, there should be a single branded entry point (as highlighted in Recommendation 4) for consumers wishing to make a complaint. This would allow multiple schemes to exist and compete with each other, but ensure that this happens in the 'background' so the ADR landscape retains simplicity and ease of navigation. BEIS should also consider whether having 1 ADR provider per sector is the right solution for consumers.

Recommendation 4: ADR should be branded more consistently.

There is a wide variety of ADR types and processes available and a lack of clarity over terminology. Different ADR schemes are described in various ways, and it is not always clear what type of service is actually on offer. This is a particular issue in terms of ensuring that consumers know what to expect from ADR. In order to consolidate ADR as a key means by which consumer disputes are resolved, ADR needs to develop a clear, common, and well-known brand. Recent years have seen an increase in the number of ADR schemes branding themselves as ombudsman schemes. The high public profile of the Financial Ombudsman Service, in particular, seems to have increased public awareness of ombudsman schemes as an important source of dispute resolution for consumer problems. The ombudsman brand may, therefore, provide a starting point for thinking about providing consumers with a more consistently branded ADR offer.

Recommendation 5: ADR schemes should harmonise their practices wherever it is in the consumer interest to do so.

The Department for Business, Energy and Industrial Strategy should work with

the industry and key stakeholders to harmonise practice across ADR schemes. For example, consumers should be able to expect similar levels of procedural fairness and support in making a complaint regardless of the ADR scheme they are complaining to.

One aspect of the ADR sector that is confusing for many consumers is the diversity of process and practice between schemes (even where those schemes are, on the face of it, offering the same type of service). An advantage of ADR is its flexibility and its adaptability to local circumstances. At the same time, however, without some common approaches and a common terminology for describing what schemes do, it will not be possible to develop common standards, benchmarks, and reporting requirements (see recommendation 6 below). This will prevent meaningful evaluation of performance across schemes and, as ADR becomes more established in future, will mean that consumers' experiences of ADR may become increasingly uneven. There is no need for identical processes to operate, however, a greater degree of harmonization and consistent terminology is likely to benefit consumers.

Recommendation 6: a single authoritative body should be tasked with setting common performance standards, benchmarks, and reporting requirement for all ADR schemes

The analysis clearly demonstrates the difficulty in comparing performance between ADR schemes at present. The Consumer ADR Directive has led to the development of some common quality standards. The Ombudsman Association is currently finalising a project with the British Standards Institute to develop a common service standards framework for its members, who will be required to report on their performance against their published standards. While these developments are positive, there is a need for more action, particularly in relation to agreeing benchmarks and common reporting requirements that would also apply to ADR providers that are not members of the Ombudsman Association. Having a single authoritative body with oversight of the ADR sector would also ensure that quality is maintained.

Appendix A – the research team

Dr Chris Gill is Director of the Consumer Dispute Resolution Centre at Queen Margaret University. He is an expert in ombudsman schemes and ADR and has published widely in this area. Chris has significant experience of qualitative research methodologies and has conducted a number of large scale interview studies. He has directed a number of research projects for clients and has a proven track record of delivering timely, high quality research reports. As a former ombudsman scheme practitioner, Chris has excellent professional networks and an up to date understanding of current policy developments. He sits on a number of external committees, including the Ombudsman Association's Validation Committee, the Law Society of Scotland's Administrative Justice Committee, and the Scottish Government's Administrative Justice Working Group. Chris has recently led projects for the Welsh Language Commissioner, the Care Inspectorate, the Legal Ombudsman, and Ombudsman Services. He is currently conducting research – on behalf of the Nuffield Foundation and the UK Administrative Justice Institute – investigating the relationship between complaint data and reporting and improvements in service delivery. Chris has spoken about his work on STV News, BBC Radio Scotland, and Radio 4's You and Yours programme.

Dr Naomi Creutzfeldt teaches law at the University of Westminster. She has a wealth of experience in conducting research on ADR bodies and their users. She has worked on consumer ADR in Europe for the past seven years (at the University of Oxford and now at the University of Westminster), secured grants (and consultancies) to understand users' expectations of ADR bodies as well as what enhances trust and legitimacy of ADR. Naomi has published her findings widely in the academic sphere as well as in stakeholder and policy documents, presented at many conferences and knowledge exchange workshops. She has a close working relationship with many of the UK ADR providers and is writing a book about ombudsmen in the informal justice system. More information about the ESRC project: Trusting the middle man: impact and legitimacy of ombudsmen in Europe https://www.law.ox.ac.uk/trusting-middle-man-impact-and-legitimacy-ombudsmen-europe

Jane Williams is a lecturer in consumer and business law at Queen Margaret University, Edinburgh whose current research focuses on dispute design in the context of consumer ADR. As a former manager in Trading Standards, Jane has direct experience of complaint handling, investigation, and enforcement of consumer law. She has previously published on the UK's experiences of implementing the Unfair Commercial Practices Directive. Jane continues to have strong links within the Trading Standards field across the UK. She is a member of the Chartered Trading Standards Institute and works with them as an examiner and moderator. Jane is a member of the Queen Margaret University's Consumer Dispute Resolution Centre. She has extensive experience of running short courses for regulators, ombudsman organisations, and complaint handers working in both the public and private sector. Jane was recently appointed as a consumer representative to the Scottish Civil Justice Council and is also a member of their Access to Justice Committee.

Sarah O'Neill is a non-practising solicitor, with many years' experience of working on consumer and access to justice issues. She was formerly Legal Officer at the Scottish Consumer Council, and then Director of Policy at Consumer Focus Scotland. In both those roles and latterly as an independent consultant, she has written many policy and research reports and consultation responses in the areas of civil and administrative justice, consumer redress, alternative dispute resolution and consumer law. In 2014, Sarah wrote a policy report for Consumer Futures on Consumer protection, representation, and constitutional change in Scotland. Sarah has represented the consumer interest on various high level working groups, including the Scottish Tribunals and Administrative Justice Advisory Committee and the Expert Panel on Redress which advised the Scottish Government's Working Group on Consumer and Competition Policy for Scotland. She is a part-time legal chairperson of the First-tier Tribunal for

Scotland (Housing and Property Chamber). She is an accredited mediator, and is a former member of the board of trustees of the Scottish Mediation Network. She is currently a board member with the Scottish Legal Aid Board. She is also a member of the Advisory Board of the UK Administrative Justice Institute, and of the University of Strathclyde Mediation Clinic Advisory Group.

Nial Vivian is an experienced ADR practitioner, lecturer, and researcher in the related academic field. Prior to joining Queen Margaret University in August 2016, he has resolved complaints across a number of schemes and disciplines, for both businesses and an ombudsman scheme, as well as acting as an Executive Assistant. He has also functioned as an Independent Reviewer of a major independent regulator. He has developed an appeals service, managed trade association and trusted trader schemes, researched and drafted a corporate strategy, and resolved hundreds of complaints across private-sector dispute resolution, as well as having co-authored a policy brief on the importance of rationalizing the private-sector dispute resolution landscape. Additionally he has received training in consumer law, and is studying for an MSc in Dispute Resolution with Queen Margaret University, where he plans to complete a dissertation on the effects of competition between ADR schemes.

Appendix B – summary of research methodology

This annex provides a summary of the methodology used to carry out the research.

Phase 1 – mapping the UK's ADR landscape

The aim of the mapping exercise was to identify all the ADR schemes currently operating in the United Kingdom. This involved conducting desk based internet research. ADR schemes' websites were searched for using the Google search engine, using a variety of key words (e.g. 'ombudsman', 'ADR', 'conciliation scheme', 'arbitration scheme', etc.) Sector specific searches were also conducted to ensure comprehensive coverage (e.g. 'ombudsman for property', 'ADR for retail', etc.) In addition to this internet research, the mapping exercise drew on the findings of previous research which has surveyed the UK's ADR landscape.[21]

Phase 2 – comparative analysis of selected ADR schemes

The aim of phase 2 was to gather information about the performance of selected ADR schemes in order to provide a comparative assessment. 11 schemes were selected for inclusion in phase 2, with the aim of ensuring a mix of schemes from both regulated and non-regulated and to include ADR schemes were represented that were of particular interest to Citizens Advice.

The data was gathered against an assessment framework developed in research previously commissioned by Citizens Advice.[22]. This includes eight criteria:

- accessibility and visibility;
- independence and impartiality;

[21] Office of Fair Trading. 2010. *Mapping Consumer Redress: A Summary Guide to Dispute Resolution Systems*. Hodges, C., Benohr, I., Creutzfeldt-Banda, N. 2012. *Consumer ADR in Europe*. Oxford: Hart Publishing. Kirkham, R., 2016. Regulating ADR: Lessons from the UK. In CORTES P. (ed.) *The New Regulatory Framework for Consumer Alternative Dispute Resolution.*

[22] KLEIN G. 2015. Strengthening and streamlining energy advice and redress. London: Citizens Advice. Available at: https://www.citizensadvice.org.uk/Global/CitizensAdvice/Energy/Strengthening%20and%20streamlining%20energy%20advice%20and%20redress%20-%20Full%20report.pdf

- expertise and professionalism;
- comprehensiveness and integration;
- adequacy of resources;
- effectiveness and efficiency;
- responsiveness and future-readiness; and
- transparency and accountability.

Each criteria features a number of performance indicators and information was searched for in order to see whether published data was available about each criteria (and of the supporting indicators within each criteria). Once the initial internet research was completed, a document was sent to each of the selected ADR schemes asking them to review the findings and provide further information. Follow up telephone interviews were held to ensure that data was interpreted correctly and was as comprehensive as possible.

Phase 3 – interviews with consumers who have used ADR schemes

In order to gain access to consumers who had used an ADR scheme, five ADR schemes were approached and asked to contact consumers on the researchers' behalf. The five schemes who participated in phase 3 of the research were:

- Ombudsman Services: Energy
- Ombudsman Services: Communication
- The Motor Ombudsman
- The Dispute Resolution Ombudsman
- The Retail Ombudsman/ Aviation Ombudsman

The researchers asked the participating ADR schemes to contact people whose complaints had been upheld and not upheld. They were also asked to ensure that invitations were sent to a proportionate number in each category. Consumers who wished to participate then either contacted the researchers directly or agreed for the ADR scheme to pass on their details to the researchers.

Due to some difficulties in securing consent to participate from consumers, attempts were made to boost the interview sample using a database of consumers who had approached Citizens Advice and been referred to ADR. Citizens Advice contacted these consumers asking them to take part in the research and then passed the details of those who consented to the researchers. As a result, this meant that some of the consumers we spoke to had also used the Financial Ombudsman Service, the Communications and Internet Services Adjudication Service, and the Glass and Glaziers Federation.

Once consumers had consented to take part in telephone interviews, an appointment was arranged. All interviews were digitally recorded and transcribed. Interviews were semi-structured and sought to attain a good balance between structure and flexibility for the interviewers to follow up points of interest. Given the tight timescales for the conduct and reporting of the research, the interview schedule was fairly directive in order to speed up and facilitate subsequent data analysis. The starting point for designing the interview schedule were the following questions:

- What is the level of consumer trust in ADRs?
- What is consumer journey to ADRs?
- What are consumers' experiences and views of ADRs across regulated and non-regulated markets?
- What are the outcomes and overall level of satisfaction with the ADR schemes?
- What is the comparative cost of using the ADR to the consumer?
- What essential criteria does an ADR need to improve consumer outcomes?
- What would the ideal consumer route and model of ADR look like?

Once transcribed, Interview data was uploaded to the Nvivo computer analysis software. To speed up the analysis process, preliminary codes were assigned to data using the structure of the interview schedule. This allowed the broad themes in the data to be identified and relevant data categories to be grouped. Subsequently, data within groups were subjected to secondary, inductive coding, in order to provide a more refined and granular data analysis. The data analysis approach involve 'thematic analysis' and followed the directions of Miles et al (2014) qualitative data analysis handbook.[23]

[23] MILES M., HUMBERMAN, M. and SALDANA, J. 2014. *Qualitative Data Analysis Sourcebook*. (3re ed)

London: Sage.

Appendix C – characteristics of the interview sample

Which ADR schemes had consumers who were interviewed used?

Scheme	Number
Ombudsman Services: Communications	6
Ombudsman Services: Energy	8
Motor Ombudsman	6
Retail Ombudsman	5
Dispute Resolution Ombudsman	4
Financial Ombudsman Service	3
Communications and Internet Services Adjudication Scheme	1
Glass and Glaziers Federation	1
Signposted but not used	3
Total	**37**

What were the key characteristics of the consumers who were interviewed?

Characteristics	Number	Percentage
Gender		
• Male	21	56.8%
• Female	16	43.2%
Age		
• 15-24	0	0%
• 25-34	5	13.5%
• 35-44	1	2.7%
• 45-54	7	18.9%
• 55-64	11	29.7%
• 65+	12	32.4%

• Missing data	1	2.7%
Occupation • Retired • Professional/ managerial[24] • Self-employed • Skilled / Semi skilled[25] • Student • Unemployed • Missing data	 17 11 3 3 1 1 1	 45.9% 29.7% 8.1% 8.1% 2.7% 2.7% 2.7%
Perception of complaint outcome[26] • Negative • Mixed • Positive • Not applicable/ missing data	 7 16 10 4	 21.2% 48.5% 30.3%

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[24] Job titles grouped in this category include: accountant, managing director, marketing officer, sales manager, paramedic, teacher, civil servant, negotiator, chartered engineer.
[25] Job titles grouped in this category include retail assistant, support worker and school lunchtime supervisor.
[26] Respondents were asked whether their complaint had been upheld or not upheld but they were often unable to understand the outcome of their complaint in those terms. Instead, they talked about whether they had got what they wanted as a result of their complaint. Often it seemed liked the complaint had been upheld, at least in part, but consumers had wanted more. We have, therefore, classified perceptions of outcomes as follows: negative = consumer did not get what they wanted; mixed = consumer got part of what they wanted; positive = consumers got everything they wanted (and more in some cases). In addition, four of the respondents contacted Citizen Advice and received advice on their ADR options. Their complaints were either still being dealt with or the respondent was yet to contact the ADR provider.

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