

National Conciliation Service Annual Activity Report 2016 – 2017

The National Conciliation Service (NCS) are Chartered Trading Standards Institute (CTSI) certified providers of Alternative Dispute Resolution (ADR) for consumers. All as defined under the *Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015*

Schedule 6 of the regulations require ADR entities to publish a second-year activity report. The following information is in accordance with these requirements and cover the period 1st October 2016 to 1st October 2017

The NCS deal with consumer disputes within the retail motor sector concerning contractual obligations in sales and service contracts when one party is a consumer resident in the EU, and the other party is a trader established in the EU, although the vast majority of disputes we deal with are UK based. During the period 1st October 2016 to 1st October 2017, the NCS dealt with 862 domestic disputes and no cross-border disputes

The disputes dealt with during this period covered a wide range of complaints. However, by far the main areas of consumer complaint related to *Vehicle Repair* at 39.3% with the *Sale of Second Hand Vehicles* 22.5%. Data also showed that complaints relating to *Vehicle Damage* at 6.9% and complaints relating to the *Rejection of a Vehicle* at 6.8%. The number of complaints discontinued by the consumer after being assigned were less than 1%

Compared to last year's figures this indicates an approximate 9% increase in complaints relating to the *Rejection of a Vehicle* (as previously predicted), with the *Sale of Second Hand Vehicles* remaining very much the same at 22.5%, whilst complaints about *Vehicle Servicing* showed a decline to last year by almost 23%. However, complaints about *Vehicle Repairs* increased substantially by approximately 75%

Although a small percentage of this increase may be down to minor changes made to NCS compliant categories, we feel the major rise in *Vehicle Repair* complaints may be due to changes in legislation brought in by the Consumer Rights Act 2015, with particular regard to the perceived assumption under the act, that the trader has only '*one chance*' to rectify the issue

Although the Consumers Right Act 2015 has in the main been beneficial to consumers and traders in clarifying many areas of consumer law, we believe more clarification and guidance to both consumers and traders is needed under this act regarding *Service*; '*right to repeat performance*' and '*right to a price reduction*' along with *section 20* of the act '*Right to reject*', specifically in relation to new and used motor vehicles

The NCS has not refused to deal with any dispute that met with our operational criteria and authorisation, and none have been discontinued due to operational reasons and a total of only 6 assigned cases were referred to more appropriate providers of ADR

We believe the rate of compliance in relation to *non-binding* disputes to be very high although we have no specific data. The rate of compliance on cases that are *binding* we believe to be 100%, and the average time to resolve a dispute is within 40 days of receiving the *complete* file on the case

The NCS continue to cooperate with the Financial Ombudsman Service, and other ADR entities involved in resolving consumer to trader disputes, and are currently in discussion with the Ombudsman Association regarding membership

We are continually looking at ways of improving the service we give to consumers and traders alike and hold regular meetings and training sessions to ensure our case handlers are fully aware and conversant with consumer to trader rules and regulations. A number of our conciliators are also studying for the *Professional Certificate in Ombudsman & Complaint Handling Practice* run by Queen Margaret University, Edinburgh, and all case handlers are members of the *Institute of Consumer Affairs* and all abide by the *European Code of Conduct for Mediators*

Recent review and assessment of our experience in dealing with consumers complaints over the last two years, has identified a number of ways we can improve the service we provide to both consumers and traders. One area that has been clearly identified is the lack of information that is easily available regarding the ADR process in general, and *Consumer Protection Rights and Legislation*. To this end we are restructuring our website to include information that will assist both consumers and traders. This restructure will contain links and downloads that will further assist all parties understand both the process of ADR and consumer legislation

We also found that because the ADR process is at a distance (via email, letter telephone etc.,) it may be difficult at times to both initially identify the consumer as a 'vulnerable' person, and secondly how to assist a 'vulnerable' consumer effectively with their complaint/s. Consequently, we are introducing procedures to try to involve Citizens Advice to be available to assist the consumer during the process, should it be considered necessary

Further analysis has also identified a clear lack of knowledge by many traders regarding their legal obligations to comply with EU & UK ADR legislation. However, it must be acknowledged that this is a problem with all sectors and not just the Retail Motor Industry. Nevertheless, this has not been helped by certain 'legal advisory' business advising traders to ignore the CTSI certified process of ADR and await civil action by the consumer

To help address this problem within the Rail Motor Industry, and in addition to our regular attendance at industry seminars and training events etc., the NCS will issue regular bulletins and reminders to all subscribers to the NCS and the sector in general, of not only the legal requirement to comply with ADR legislation, but also the benefits that CTSI certified ADR can bring to both parties

Our most recent data indicates that as consumers have become more aware of ADR and the service we provide here at the NCS, there has been significant increase in complaint referrals. We have identified many reasons for this. They include; more general public awareness of ADR; direct referrals by organisations such as Citizens Advice and Trading Standards; our ability to offer ADR for complaints that are outside the £10,000 civil courts small claims limit; the fact that we can now consider complaints over a wider time frame (6 years); and of course, the recent changes in both consumer legislation and civil court procedures have further increased the number of ADR cases

Finally, we are pleased to report that an independent review and audit of our second year of operation under the 2015 ADR regulations has also been carried out by the Chairman by our Independent Compliance Panel (ICP) Mr Jim Appleton, and ICP member Mr Brendan McGrath. This is separate and in addition to any audit/s or compliance meeting/s carried by the CTSI

Mr Appleton and Mr McGrath found that the NCS had complied fully with ADR legislation. Regarding a selection of random cases chosen by Mr Appleton for audit, Mr Appleton reported;

I can confirm that, in all of the files examined, the panel were of the opinion that the NCS have, once again, dealt with the disputes in a thorough unbiased, fair, open and professional manner fully in accordance with statutory requirements of the Regulations.

The panel were particularly impressed with the clarity and high quality of the correspondence produced by the NCS staff members and case handlers.

A copy of Mr Appleton's report is available on request

National Conciliation Service - October 2017

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