

**Second Annual Report from Independent Compliance Panel Chairman Mr Jim Appleton
1 November 2017**

1. Attendance

Panel members present were Brendan McGrath, Litigation Solicitor with Liverpool City Council and Jim Appleton, Panel Chairman – both effectively viewing the National Conciliation Service (NCS) process from the consumer perspective. The third member of the panel, Colin Parlett representing the retail motor sector, was unable to be present due to being on holiday. He had, however, indicated that he was content for the meeting to take place without him

Please note that Mr. McGrath is a new member of the panel and had been invited to participate when it became apparent that Mr. Andrew Rees had stood down due to pressure of work. Also present was Mr. Julian Mason, Service and Compliance Manager of the NCS.

2. Update on recommendations made in The Independent Compliance Panel (ICP) Chairman's previous report dated 30 September 2016

Two issues had been identified in the report as follows:

Firstly, not all subscribing businesses have the necessary information on their websites signposting dissatisfied consumers to the NCS process. It was agreed that further work needs to be done to help ensure that businesses signpost consumers correctly at the end of their internal complaints handling process and to ensure that those with websites publish details as required by the relevant legislation.

On this point Mr. Mason explained that the NCS have been working hard to rectify this issue which, for the most part, is beyond their direct control. However, considerable efforts have been made by way of email updates to subscribers, news bulletins and attendance at a number of important retail motor industry annual seminars, conventions, road shows etc - the last event being the National Tyre Dealers Association in October 2017

Secondly, there was a potential problem with NCS providing information to the Retail Motor Industry Federation (RMI) in cases where the complaints received by NCS demonstrated that the business was not operating to the standard required by the RMI. The NCS process is confidential and the question was whether NCS could pass relevant information on to the RMI

Here Mr. Mason said that this was an ongoing contentious issue which has legal consequences for both the NCS and the subscribing organisations if it is not handled in a way which is both fair and legally compliant, and does not hinder or restrict the NCS in the way the consumer or trader judge the NCS procedure as totally impartial and confidential

For example: Should a consumer resolve a dispute with a trader via the civil courts then the trader's relevant trade body or organisation would not usually be aware of the dispute. They would, however, if notification of the Alternative Dispute Resolution (ADR) providers 'confidential' opinion and decision was automatically disclosed to the relevant organisation/trade body. This in turn may make the trader reluctant to use ADR in the first place

This has, however, been identified as something that most organisations/trade associations are keen to address. In the case of the RMI, Mr Colin Parlett (Chairman of the Independent Garage Association (IGA) and ICP panel member) has been most proactive to this cause and is in the process of making the changes necessary in the relevant organisations T&C's or code of practice/s to enable the RMI Disciplinary Panel, to act upon any NCS reports of frequent offenders or indeed any case that has been brought before the NCS should it deemed to be necessary. This will further help

ensure that RMI members operate to the highest industry standards. Mr McGrath made the point that maybe a more concise definition of the word 'confidential' would help in this context and it should be noted that Mr Mason stated that to date the NCS have found no reason or cause to refer an RMI member for such action but agreed that this would and perhaps should be an obligatory condition

3. Sample Case File reviews

Prior to the meeting the panel had randomly selected six completed NCS complaint files from the scheme control spreadsheet relating to activity over the past few months. These files were referenced 33236, 33280, 33324, 33343, 33376 and MCA 409. The files had been examined in detail to ensure that consumer complaints were being processed in compliance with statutory requirements

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

4. Current NCS staff and case handlers

Mr. Mason told the panel that NCS was currently seeking to recruit more independent case handlers. Individuals with the appropriate knowledge and 'business to consumer' experience from Citizens Advice Bureau, Trading Standards or the retail motor sector would be considered.

5. Website changes

Mr. Mason told the panel that major improvements are being made to the NCS website to include consumer and business advice guides, easier on-line applications and advice links for both consumers and businesses

6. Ombudsman Association Update

Mr. Mason said that NCS were making changes to systems and procedures to ensure compliance with Ombudsman Association rules, should the NCS continue with their application for full Ombudsman status

7. Complaints Procedures

When consumers are unhappy with the way NCS has dealt with their complaint, they have the eventual option to refer the issue to the Chairman of the ICP. Consideration is to be given as to whether this procedure should be amended to allow the ICP Chairman to refer such complaints to other ICP members when expedient to do so. Such referral would only be made to an ICP member with a consumer perspective and not to a member engaged in the retail motor sector

8. Training

It was noted that independent case handlers (conciliators) meet at least twice a year for training needs and compliance updates. All conciliators are fully conversant with current consumer law – including The Consumer Rights Act 2015 and The Consumer Protection from Unfair Trading Regulations. A number of staff are also completing a professional certificate in Ombudsman and Complaint Handling Practice run by Queen Margaret University Consumer Dispute Resolutions Centre. The NCS participation is designed to further enhance case handler's knowledge and experience of ADR and Ombudsman procedures

9. Institute of Consumer Affairs

Mr. Mason reported that all case handlers and NCS Office Administrator have applied for membership of the Institute of Consumer Affairs. This will be of mutual benefit to both parties (via shared general consumer and ADR information) and also should further enhance case handler's profiles as independent operators

10. Case Handlers

Mr. Mason said that all case handlers continue to comply with and abide by ADR legislation and all adhere (as applicable) to the European Code of Conduct for Mediators.

11. CTSI Year Two Audit

Mr. Mason reported that that NCS are in the process of publishing the data required under ADR legislation (Schedule 6, Regulation 11(3)) on their website and are due to meet with the Chartered Trading Standards Institute (CTSI) auditors on 17 November 2017 at the NCS Rugby office

12 Any other business.

There was some discussion over the desired frequency of future panel meetings. Mr. Mason said that more scheduled meetings are planned, perhaps on a quarterly basis, as it would be necessary to ensure that the NCS comply with not only CTSI regulations in relation to EU and UK legislation relating to ADR but also the requirements the NCS will need to comply with for Ombudsman Association membership

It was agreed that, for the moment, there should be a minimum of two meetings each year. March and September seemed to be the most appropriate months to schedule these meetings. It was further agreed that a date and place for the next meeting would be established and diarised as soon as practicable

Thanks are due to Mr. Mason for making the arrangements for the meeting and providing information to keep the panel abreast of developments – also putting a number of items in writing to assist with the minutes. Also to Mrs. Campbell-Barker at the Rugby office for supplying the requested case files so quickly – particularly since she was already working at full capacity due to the absence of another member of staff

Report compiled by Jim Appleton, ICP Chairman on 01 November 2017