Summary

- This advice supersedes all previous announcements.
- The Office for Legal Complaints (OLC) has decided that it should withdraw its application for the Legal Ombudsman to be certified as an Alternative Dispute Resolution (ADR) entity to enable it to undertake a full consultation on the modifications to its Scheme Rules that would be required to comply with the ADR regulations. The application is being withdrawn today, and the consultation will begin on 7 September 2015.
- The OLC will consider all consultation responses received before making a decision on the Scheme Rules modifications.
- A further announcement will be made when the OLC has considered the consultation responses.

Introduction

This guidance revises the position set out in March and July 2015.

The OLC believes that it would be in the interests of consumers and the legal and claims management companies sectors for the Legal Ombudsman to be certified as an ADR entity. In order to become an ADR entity, it would be necessary for the OLC to make modifications to the Legal Ombudsman’s Scheme Rules, including in respect of the time limits that apply, and the types of case it can decide not to consider.

The OLC planned to carry out a consultation limited to implementation of the Scheme Rules changes necessary to achieve compliance but has subsequently decided that a wider consultation is merited.

Its consultation will be launched on 7 September 2015 and will be open for eight weeks.

FAQs

1) Have you applied to become the approved ADR provider for the legal sector?

The OLC applied to the Legal Services Board for the Legal Ombudsman to be certified as an approved ADR entity on the basis that although we do not currently comply with the new regulations that apply to ADR entities, we intended to comply within “a reasonable period of time”, as the regulations allow. The OLC always intended to consult on the Scheme Rules changes that would be necessary to become an ADR entity, and it has now been decided that it should broaden the consultation to ensure that all its stakeholders have a genuine opportunity to tell us their views before decisions are taken. The OLC have

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1 The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 Part 2, 9. (4) (b) (ii)
decided to withdraw the application before the consultation begins. Once the consultation period closes, the OLC will consider representations received before deciding how to proceed.

2) When will these changes be implemented?
We will announce what will happen next when the consultation responses have been considered by the OLC, after its board meeting in the week commencing 7 December 2015.

3) The consumer information requirements of the ADR Regulations come into force from 1 October 2015. Are there any changes we need to make in the meantime, for example who we signpost to?
You are still required to signpost to the Legal Ombudsman under the Legal Services Act. If we become an approved ADR entity there will need to be some slight changes in the way information is presented, and we will provide guidance on this at that time.

4) What should I do if I have already changed our client care information and will it affect the Legal Ombudsman’s case fee decisions?
If you have already changed your client care information based on our earlier guidance please revert back to the existing time limit of six months (from the date of final complaint response letter). We are sorry if this has inconvenienced you, and we will let you know in good time when the next changes are due to be implemented.

This will not affect our case fee decisions.

5) How can I respond to the proposals?
The consultation will be published on our website for eight weeks from 7 September 2015. If you would like to receive an alert about the consultation, or if you have any further questions about the ADR Directive, please contact our Stakeholder and Public Affairs Officer, Alex Moore (alex.moore@legalombudsman.org.uk).

5) Does this mean I will need to revise my file retention policy?
We have no reason or powers to compel businesses to change their existing policies.

Proposed changes to the Scheme Rules

What are the key changes that the OLC will be consulting on?
The ADR Regulations make provisions about the time within which a consumer can bring a complaint to an ADR entity, and allow entities only a limited number of grounds on which it is possible to refuse to deal with a complaint. We will therefore be consulting on modifications to our Scheme Rules, which would, if made, bring them into line with the regulations.
This will affect Scheme Rules 4.4a, 4.4b, 4.5, 4.6 and 5.7 in particular. Full details will be included in the consultation document.

Background to the Alternative Dispute Resolution (ADR) Directive and Regulations


The purpose of the Directive is to:

- Ensure that all consumers in the EU have access to an ADR scheme to seek redress when they have experienced problems with goods and services that they have purchased;
- Set some common quality standards for ADR providers, for example, in relation to how quickly complaints are dealt with; and
- To reduce consumer confusion.

In January 2016 these regulations will be supplemented by the requirements for Online Dispute Resolution (ODR), which will provide amongst other things for an online platform to signpost consumers through to the correct ADR body, and to facilitate cross-border disputes.

If you would like to find out more please visit:

BIS guidance to business

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The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015

The Alternative Dispute Resolution for Consumer Disputes (Amendment) Regulations 2015