

Publications

A Guide to Online and Alternative Dispute Resolution - what it means for Businesses in 2015

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A Peaceful New Year?

The EU is planning 2015 will bring peace to businesses and consumers they deal with. This is in the shape of new laws that will come into effect on 9 July 2015 . This can only be good news - it is estimated that in 2012 out of 6.4 million complaints made by consumers to business, almost a third were unresolved. Feedback from consumers who have used Alternative Dispute Resolution (“ADR”) tends to be positive, and a recent survey indicates 82% of businesses that have used ADR would use it again.

What do the new laws require businesses to do?

From July 2015, if there is an unresolved dispute between a business and a consumer, the business must provide information about an appropriate certified ADR provider to the consumer. This can most easily be done via the website.

If the business belongs to a sector with mandatory ADR schemes it will have to advise consumers that their dispute can be referred to the relevant ADR body. If the business is not obliged to use an ADR provider, they must advise the consumer whether or not they will use ADR to attempt to settle the dispute. In practice consumers may prefer to buy from a business offering this after care service.

Can a consumer force a business to use ADR or a particular ADR provider?

No, unless the business is in a sector where the use of ADR is already mandatory.

Who will pay for the ADR?

The business itself, or its trade association will meet the cost.

Who will oversee this?

The Government will appoint Sector Regulators. The Trading Standards Institute (TSI) will oversee ADR schemes in the non-regulated sectors.

Are there any exemptions?

Yes, healthcare and “non-economic services” performed by a member state.

What about Online Dispute Resolution (“ODR”)?

By July 2015 the Government must have set up an ODR contact point in preparation for an ODR platform to take effect from 16 January 2016. This ODR platform will channel contractual disputes arising from an online transaction to a relevant ADR scheme. It is expected that electronic case management tools and video conferencing facilities such as Zoom and Skype will be used with increasing frequency as cost and time efficient methods of ADR.

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