



Consumer Arbitration Scheme Rules 2019

September 2019

1. Introduction

- 1.1 Consumer Arbitration is an arbitration scheme which traders subscribed to the scheme, and their customers, may use to obtain a legally binding resolution to a dispute ("**the Scheme**").
- 1.2 The Scheme is operated by Consumer Dispute Resolution Limited ("**CDRL**"). CDRL is an independent, not-for-profit, Government approved organisation, authorised by: Chartered Trading Standards Institute, the Civil Aviation Authority and Ofcom, pursuant to The Alternative Dispute Resolution for Consumer Disputes (Competent Authority and Information) Regulations 2015.
- 1.3 Any arbitration under the Scheme will be governed by the provisions of the Arbitration Act 1996 or any statutory modification or re-enactment thereof for the time being in force ("**the Act**") and these scheme rules. All arbitrations will be deemed to take place in Milton Keynes, United Kingdom.
- 1.4 The Scheme cannot be used for:
 - 1.4.1 any claim for compensation exceeding £25,000; or
 - 1.4.2 any claim for compensation for personal injury, illness, shock, or their consequences.

1.5 The Scheme cannot be used where:

1.5.1 the same customer has brought a claim against the same trader regarding the same subject matter before a court or tribunal or equivalent body, which has jurisdiction over the claim and the parties and which has jurisdiction to issue, or has already issued, a legally binding and final determination regarding the claim.

1.5.2 the same dispute is actively being investigated by another dispute resolution body.

1.6 The Scheme is designed for use without the need for any legal representation. However, any party may choose to be legally represented but must do so at their own cost.

2. Applying for arbitration

2.1 A customer may only apply for arbitration once they have reached deadlock with the trader and have followed the trader's complaints process.

2.2 The application for arbitration must be received by CDRL within 12 months of the date on which the trader gave notice that it is unable to resolve the complaint.

2.3 The trader will issue to the customer contact details for CDRL in order to submit a claim form ("**Claim Form**"), which can be completed online, or via post. If the customer wishes to proceed to arbitration, the completed Claim Form, along with accompanying evidence, must be returned to CDRL either online, or via post.

- 2.4 Following submission of a Claim Form, the trader becomes known as the 'Respondent' and the customer becomes known as the 'Claimant'.

3. Fees

- 3.1 Upon submitting the Claim Form, the Claimant must pay a fee of either £10 (for claims valued between £1 - £750) or £25 (for claims above £750) to CDRL ("**Claimant Fee**"). The Claimant Fee can be paid by cheque, bank transfer or online via the Scheme website.
- 3.2 The Respondent is required to pay a separate registration fee to CDRL and will be invoiced at the appropriate time.
- 3.3 In the event that the Claimant is deemed to be the successful party in the Arbitration, the Claimant Fee is reimbursed by the Respondent.
- 3.4 Notwithstanding 3.3 above, where a sum awarded to the Claimant is the same or lower than an offer previously made by the Respondent (irrespective of the amount claimed), the Claimant shall be treated as an unsuccessful party for the purpose of Rule 3.3.
- 3.5 Each party shall bear its own costs of preparing and submitting its case, including the costs of legal representation, if any, and no legal action may be brought to recover these costs.

4. The Arbitration procedure

- 4.1 The Arbitrator shall have the widest discretion permitted by law to resolve the dispute in a final manner in accordance with natural justice. In particular, they have the power to direct the procedure of the Arbitration, including varying time limits and other procedural requirements, and

to:

- 4.1.1 allow the parties to submit further evidence and/or amend the Claim Documents or the Defence Documents;
 - 4.1.2 conduct enquiries and receive and consider additional evidence as they deem appropriate;
 - 4.1.3 issue Directions for any procedural or evidential matters which they consider appropriate;
 - 4.1.4 award interest on any sum awarded, even if not claimed;
 - 4.1.5 continue with the Arbitration if either party fails to comply with these Rules or with the Arbitrator's Directions;
 - 4.1.6 end the Arbitration if both parties confirm to CDRL in writing that they have agreed to settle the dispute prior to an award being made, any payment previously made to CDRL will not be refunded.
 - 4.1.7 end the Arbitration if they consider the case to be incapable of resolution under the Scheme. If the case is incapable of resolution (under the Scheme) then the fees will be refunded.
- 4.2 Following submission of a Claim Form and supporting evidence ("**Claim Documents**"), the Arbitration will proceed as follows:
- 4.2.1 CDRL will send a copy of the Claim Documents to the Respondent who then has 21 days within which to either submit a written Defence, prepared in accordance with Rule 5 below, or to notify CDRL in writing that the claim has been settled. If no Defence or notification of settlement has been submitted after 14 days, CDRL will issue a reminder to the Respondent. Upon application by the Respondent stating the grounds of the Application, CDRL may grant to the Respondent an extension of up to 14 days for the submission of the said documents.
 - 4.2.2 The Respondent may not make a counterclaim against the Claimant.
 - 4.2.3 Upon receipt of the Respondent's Defence Documents (if any), CDRL will acknowledge

receipt and send a copy of the Defence to the Claimant, who, if they so wish, shall submit a Reply to Defence, prepared in accordance with Rule 5 below, within a further seven days. Such Reply to Defence must be restricted to points arising from the Respondent's Defence and shall not include any new claim, assertion or evidence.

4.2.4 CDRL will send a copy of the Reply to Defence to the Respondent, who may within seven days, highlight any new content, evidence or claim contained within it. The Respondent may not introduce any new matters or new evidence or points of Defence or comment by way of Defence on the Reply to Defence.

4.2.5 Before an Arbitrator has been appointed, CDRL may in exceptional circumstances, and at its sole discretion, grant either party an extension of time for submitting the Reply to Defence or the Defence on the Reply to Defence

4.2.6 Upon receipt of the Respondent's final observations, CDRL will appoint an Arbitrator. The Arbitrator will consider all documentation and other evidence and may ask for further information from the parties.

4.2.7 Within 28 days of the case file being sent to the Arbitrator, or of the date on which the last of the information required by the Arbitrator is submitted to them, whichever is the later, CDRL will send a copy of the Award to each party.

4.3 Unless otherwise directed by the Arbitrator, all parties shall comply with the Award within 21 days after the Award is sent to the parties.

4.4 Any party may request copies of their documents but must do so in writing, accompanied by the correct postage materials and funds, within 28 days of the date of the Award being sent. If no such request is made within 28 days, CDRL will destroy them.

4.5 The default method of all communications shall be online and, wherever possible, all documents should be transmitted online.

5. What to include in the Claim Form/Claim Document, Defence, Reply and Comments

- 5.1 The Claim Form and Claim Documents shall include:
 - 5.1.1 The nature and basis of the claim;
 - 5.1.2 The amount of compensation claimed, or other remedy sought; and
 - 5.1.3 All supporting documents relied upon as evidence.

- 5.2 An Award cannot be made for any amount that is more than the total amount stated on the Claim Form.

- 5.3 If the Claimant is unable to submit a copy of any original contract or order, the Respondent shall submit a copy of that document with the Defence, if it existed.

- 5.4 The Defence shall include:
 - 5.4.1 What matters in the opposing documents are accepted, or agreed;
 - 5.4.2 What matters are disputed, with reasons why;
 - 5.4.3 Details of any outstanding amounts which remain unpaid by the Claimant, and any associated counterclaim for such amounts;
 - 5.4.4 Any supporting documents relied upon as evidence in support of their response.

- 5.5 The Reply to the Defence, by the Claimant, shall include:
- 5.5.1 What matters in the opposing documents are accepted, or agreed; and
 - 5.5.2 What matters are disputed, with reasons why.
- 5.6 If either party fails to deliver anything required by these Rules within the specified time frames, CDRL will take the following action:
- 5.6.1 Where the failure concerns information requested by the Arbitrator, the arbitration shall proceed as the Arbitrator considers appropriate;
 - 5.6.2 Where the failure is the non-delivery of the Defence, the Arbitrator may make the Award on the basis of the documents already received.

6. Confidentiality

- 6.1 Both the Claimant and the Respondent undertake not, at any time, to disclose to any person any details of the Arbitration, unless it is to uphold the Award.
- 6.2 CDRL may analyse Arbitration Awards in order to monitor the effectiveness of the Scheme and produce and/or publish findings.
- 6.3 Personal information will only be published for the purpose of upholding the Award or at the direction of a Court Order or any Governmental or regulatory authority.

7. Other rules

- 7.1 The law of England and Wales will apply to the Arbitration and to the claim. The Arbitrator shall

determine the applicable law of the contract

- 7.2 CDRL will appoint a new Arbitrator if the Arbitrator originally appointed is unable to deal with the dispute. CDRL will inform the parties if such an appointment is made.
- 7.3 With the exception of amending the Award following any minor error/omission, which they have power to correct by law, neither CDRL nor the Arbitrator will enter into correspondence or dialogue relating to the Award.
- 7.4 In the event that the Arbitrator has made a minor error/omission which they have power to correct by law, the minor error/omission will be corrected. This can be done at the Arbitrator's own initiative, or upon the request of either party, providing the request is made within 14 days of the Award being sent to the parties. The timescale of 21 days to comply with the Award at Rule 3.4 above will run from the date that the amended Award is sent to the parties.
- 7.5 The Arbitrator shall not be liable to any party for any act or omission in connection with any Arbitration conducted under these Rules, save for any wrongdoing on their own part arising from bad faith. CDRL separately can only be held liable for acts of bad faith.

Frequently asked questions

What is arbitration?

Arbitration is a form of alternative dispute resolution (“**ADR**”) and is a cost effective, speedier and a less formal alternative to resolving your dispute through the courts. It is conducted privately based upon written documentation and evidence.

What is an arbitrator?

An arbitrator is a neutral person who makes a legal and binding decision (“**Award**”) after considering the evidence that both the Claimant and Respondent submits. The role of an arbitrator is similar to that of a judge and the award will be conducted fairly and neutrally. Arbitration is a legal process and the Arbitrator must make their decision based on the law.

What is an Award?

The Award is the document with the decision that the Arbitrator produces once they have considered all the evidence. ***You and the Respondent are legally bound by the Arbitrator’s decision, which is enforceable in the courts, subject to any provisions in the rules. It contains legally binding orders for the parties and details of the case and the Arbitrator’s explanation as to why they decided the case as they did.***

The Arbitrator decides the case purely on the arguments and evidence presented by the parties. The parties must prove their case on the balance of probability to the satisfaction of the Arbitrator. The Arbitrator assesses the evidence and analyses the terms of the contract, which have been agreed to by you and the Respondent when the booking was made. The Arbitrator specifically looks for a proven breach of this

contract.

The Arbitrator is restricted to consideration of the documents and evidence submitted. You must therefore make every point and submit all supporting evidence that you consider relevant. You must also retrieve and submit any documents sent previously to any other body and upon which you intend to rely.

Who has the burden of proof?

The burden of proof is upon the Claimant (consumer), as it would be in court.