

Dear Sir Henry,

Consumer Focus welcomes the opportunity to comment on the Civil Mediation Council's (CMC) proposals to introduce a voluntary system of registration for mediators and mediation organisations, bolstered by a mediators code of conduct and a new Complaints Review Body.

Alternative Dispute Resolution (ADR) plays an important role in our justice system. ADR in general and mediation in particular, offers consumers many benefits: it is informal, confidential and offers the possibility of a quicker dispute resolution at a lower cost than might be possible should the parties decide to go through with litigation. These are benefits we wish to see promoted; indeed, we would like to see mediation, where appropriate, become an integral part of our dispute resolution culture.

To help achieve this future, it is important to address issues concerning the appropriate level of quality assurance in the mediation market. However, like the CMC, we do not believe that statutory regulation is needed to protect consumers and it is not necessary to foster growth or promote a mediation culture. On the contrary, it may stifle the development of mediation, and lead to an increase in cost for consumers.

Nevertheless, we strongly believe that the CMC should invest in formal quality measures which would benefit consumers and the mediation market. Consumers ought to be able to assess the quality of mediation on offer. They should be able to make reasonable judgements about whether the mediators they have approached, or been referred to, offer an effective and fair consideration of their dispute. Therefore, we are broadly in support of the CMC's proposals for standardising quality measures. We offer observations and suggestions (below) which would strengthen the current proposals.

The Voluntary Registration Scheme

Consumer Focus agrees with proposals for a registration scheme that represents a floor rather than a ceiling for standards. We are however concerned that the required registration standards of 24 hours training and six hours of mediation-specific CPD a year, is too low to offer the public much comfort. We are also unclear about what '24 hours' of training means or entails in practice

Complaints Review Scheme

We welcome the introduction of a Complaints Review Scheme (CRS), but think that the current provisions should be strengthened to offer consumers a fair, legitimate and effective remedy. We would therefore like you to consider the following points:

- Consumer Focus does not wish to see consumers charged for accessing the CRS. We do not consider it appropriate or fair that after exhausting internal complaints procedures, aggrieved consumers, should then find themselves compelled to pay a charge for escalating an unresolved dispute. Especially, as mediators and mediation organisations have paid an administrative cost (in their registration fee) towards running the CRS.
- Charging consumers to access an independent complaints scheme when complaining about mediators also departs from the current convention and good practice of comparable schemes. The Financial Ombudsman Service, Finance and Leasing Association Arbitration Scheme, the Pensions Advisory Service and the Pensions Ombudsman do not charge consumers for accessing their independent schemes.
- We support CMC's proposal that complaints should only proceed to the CRS once internal procedures have been exhausted. However, the imposition of a time limit for handling internal complaints is good practice which boosts consumer confidence and contributes to service improvement.
- At present the proposal is silent on the composition of the Complaints Review Panel (CRB). The composition of the panel is important for its effectiveness, credibility and legitimacy. We encourage the CMC to draw on individuals who understand the mediation market, court users and others.
- Finally, we believe that there should be stronger sanctions for mediators and mediation organisations that refuse to follow the recommendation/s of the CRB. This should include removal by the CMC from the registration list.

I hope the observations and suggestions above inform further deliberation on this important issue.

Yours sincerely

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