

## Alternative Dispute Resolution Service Consumer Guide

The Furniture Ombudsman works with the British Association of Removers member firms (BAR) to raise industry standards and ensure that their customers have an additional layer of protection in case something goes wrong.

Dispute Resolution Ombudsman Limited, operating as The Furniture Ombudsman (“the Ombudsman”) is a not-for-profit Alternative Dispute Resolution (“ADR”) organisation specialising in the resolution of disputes between a consumer and a business. Our primary role is to investigate complaints and disputes in order to come to a resolution. Our service helps everyone to get a fair deal and reduces the stress and expense that is associated with drawn out complaints and the potential for Court action.

Our independent status is at the heart of everything that we do, as is our commitment to openness, honesty and integrity. We recognise the importance of these values to everyone that relies on our service. The work that we do is impartial; we are neither a consumer champion nor a trade body. We will work with you and the trader to resolve your complaint and we will provide information arising out of this to BAR as part of their ongoing rigorous assessment process.

When administering disputes, we have regard to all of the relevant consumer legislation. However, to remain effective, we may also consider other non-legal factors that might reasonably be taken in to account when deciding the outcome of a case. We will also apply the BAR/CTSI Code of Practice which can be found on our website or which can be requested directly from the member.

Our overall aim is to raise standards and inspire consumer confidence and we work to uphold the key principles of the Ombudsman Association whilst delivering our ADR service, namely:

- Independence
- Fairness
- Effectiveness
- Openness and Transparency
- Accountability

We are a government approved provider of Alternative Dispute Resolution in the United Kingdom and are referenced on the Chartered Trading Standards Institute’s website as such. We also work with a wide range of stakeholders including the Citizens Advice service, the Department for Business Innovation and Skills and regional trading standards offices. Many of our staff are legally qualified and are Associates of the Chartered Institute of Arbitrators (CI Arb).

If you are in dispute with a BAR member, and you have not been able to resolve your complaint directly with them, you can refer your case to us.

### **Can we actually deal with YOUR complaint?**

The Ombudsman is able to deal with your complaint if:

Your contract is with a BAR Member during their endorsement as a BAR Member.

*(Please check if a business is endorsed with the BAR Members scheme)*

And

You have been through the trader's in-house complaints handling procedure. Please note that we cannot start to investigate your complaint until you and the trader have had a proper chance to try and resolve the issues yourselves. This means that you must have exhausted the trader's in-house complaints handling procedure, and be able to provide us with the member's final viewpoint letter.

And

You have referred your complaint within 12 months of receiving the trader's final offer of settlement or response to your complaint.

### **What complaints can we consider?**

- Poor or incompetent service
- Infringement of your legal rights
- Failure to follow the rules set for member firms under BAR/CTSI Code of Practice and membership obligations
- Unfair treatment

### **When can't we look into a dispute?**

Where your complaint is about a trader who is not endorsed as a BAR Member at the time of your complaint, we cannot investigate the complaint.

We cannot normally investigate your complaint if you are a business. In these cases the complaint will more usually be suited to the County Court.

We are unable to investigate your complaint in the following circumstances:

- Your dispute has not previously been referred to the BAR member firm
- Your dispute is against a firm who are not registered with BAR
- Your dispute is being or has been dealt with by a court or other redress scheme;
- Your dispute concerns alleged criminal activity or negligence claims
- Your dispute requires a full legal decision and/or legal sanctions
- Your dispute was referred to the Ombudsman over 12 months from the member's final viewpoint letter
- Your complaint was registered before the member was registered with BAR
- The value of your complaint is over £10,000
- Your complaint is reasonably determined to be frivolous or vexatious
- Your claim relates to an outstanding insurance claim

The Ombudsman process can make awards of up to £10,000 in compensation in any single dispute (in addition to the purchase price of the goods/services that were bought). Claims for amounts in excess of that sum may be more complex and thus better suited to a claim in the County Court or to be pursued via insurance.

### **When can I complain to The Ombudsman?**

When the trader is an endorsed BAR Member at the time the service was delivered.

Tell the trader concerned that you have a complaint and that you want them to look at it under their internal complaints procedure. The Ombudsman will not normally consider your complaint unless you have tried this first.

The member must:

- Acknowledge your complaint within 3 working days of receipt;
- Conduct an internal investigation and provide you with a formal written outcome within 15 days;
- If you remain dissatisfied, provide you with a written statement expressing their final viewpoint

**OR** If the trader has not dealt with your complaint within **8 weeks** of receiving it in writing, then you may take it direct to the Ombudsman.

If the trader has finished considering your complaint before 8 weeks have expired and have issued you with a final viewpoint letter, you can contact the Ombudsman with details of your complaint.

### **What will the Ombudsman do?**

You will be required to fill out an application form that will help you put your complaint to us. You will also be asked to agree to us contacting the trader about your complaint and getting information from them.

When we receive your application form and the trader's response, we will pass your file to one of our Ombudsmen who will undertake an initial case review – largely based on the documents and information sent to us by both parties, but we may make other enquiries.

#### **Early Resolution?**

Our Ombudsmen will look at the history of the problem and all evidence presented. We will contact you and the trader to enable the complaint to be resolved quickly and informally. Where this is not possible we will decide whether we need further information from you or the trader.

Once the Ombudsman has made a decision, we will send a written copy of this to you and the trader. This includes our view on the validity of the complaint and any action that should be taken to resolve it.

Any award that we may make in your favour is to compensate you for any loss you may have suffered and which we feel is appropriate in your particular case. In coming to this decision we will look at the trader's terms and conditions; their obligations under the BAR/CTSI Code of Practice and the applicable consumer law.

The decisions that we make are in relation to the dispute between you and the trader. We do not intervene where insurance claims are concerned and our awards do not include these.

This decision is binding on the BAR Member and legally enforceable against them. The decision will also be notified to BAR as part of their ongoing endorsement process. The consumer has the right to pursue the matter further through alternative channels if they choose to do so.

### **Where can I get an application form?**

The quickest and easiest way to file a complaint is to download and print a form from our website [[www.disputeresolutionombudsman.org/BAR](http://www.disputeresolutionombudsman.org/BAR)] or call us on 0333 241 3209 and we will post or email one out to you.

Your application will be subject to initial assessment to ensure that the claim is one which we are able to look into in accordance with the criteria outlined above.

### **How long will the Ombudsman process take?**

It is difficult to give any firm estimates as the time taken to consider each case will depend on the complexity of that case and how much the parties disagree. Where the case is particularly complex or serious our process could take in the region of three months.

Due to the high volume of cases we receive it is necessary for us to deal with each case in the order in which it is received. If your situation changes, or if there is any new information that you wish to be considered please contact us with this, ensuring that you quote your case reference number and we will update your case file. Because of the high volume of correspondence sent to us, and number of telephone calls and emails received, we do not routinely acknowledge or respond to all of these at the time that they are received. You can expect to receive a response from us at the following stages:

- When we receive your application
- When we have conducted our initial case review, if we decide we need further information from you, or need to get the works and/or products tested or inspected
- When we have made our decision

To review our most recent set of statistics relating to case outcomes and average case times please visit the Case Statistics page on our website or refer to our latest Annual Review.

### **Will I need legal representation?**

Neither party is obliged to appoint a lawyer or legal advisor in order to access our dispute resolution service. However, if either party is unsure as to their rights or obligations we recommend that they seek the appropriate advice.

### **What level of proof do I have to provide?**

Please note that, even though we have accepted a complaint, this does not mean that we will necessarily find in the consumer's favour. Each case is decided based on the evidence available and the relevant legal position.

We will need to be convinced that any issue – in whole or in part – is the responsibility of the trader. It will not be sufficient for the consumer to make unsupported allegations or statements. Any evidence provided will be evaluated by the Ombudsman.

### **How will the Ombudsman assess my complaint?**

The Ombudsman is a recognised alternative dispute resolution body. This means that we will decide cases along the same principles as those used by the courts. We will take account of relevant consumer legislation, together with the requirements of the Code of Practice and the BAR/CTSI Code of Practice. Like the courts we will award compensation where appropriate.

However, unlike in a court of law, we have no power to cross-examine witnesses under oath. As such, there are occasions where we may not be able to come to a formal decision. We will always ensure we arrive at a decision based on what appears to be fair and reasonable in the circumstances.

### **Offers made to resolve complaints informally**

We will always consider – and actively promote and support – any opportunities for reaching a settlement between both parties.

However, please note that if the trader has already made you any form of financial offer by way of settling your dispute – be it of compensation or goodwill – that offer may lapse on referral of your complaints to us. We will make our own decision based on the information and evidence submitted to us, and that decision may award more or less than any sum already offered by the trader.

### **If the Ombudsman rules in the consumer's favour, what is the likely outcome?**

The Ombudsman may make an award of financial compensation or make the trader do certain things.

We cannot compel a trader to provide explanations as to why something may have gone wrong, or make them apologise. **[Act in conjunction with BAR Code]** Our obligation is to make a decision that will resolve the dispute. We will act as an alternative to the courts, and where necessary make a formal decision as to what should be done.

### **What if I do not agree with the Ombudsman's decision?**

The decisions made by the Ombudsman are not binding on consumers; which means they remain free to pursue the complaint through other channels. Consumers can withdraw from the process at any time and the outcome will only be binding on them if they agree with our decision about what should be done to resolve the case. We would advise that you seek professional legal advice before taking further action, for example by contacting Citizen's Advice on 08 454 04 05 06.

### **Does the trader have to do what the Ombudsman says?**

Please note that the Ombudsman is not a regulator and they cannot penalise endorsed traders except where they breach the scheme's Code of Practice or BAR/CTSI Code of Practice. If the award is accepted by the consumer, it becomes a full and final settlement and is binding upon the trader. You are therefore prevented from making any further claims for compensation against the trader in relation to this complaint.

If the Ombudsman makes an award, and you accept it, it is expected that the trader takes the action required to put the settlement in hand within 28 days.

### **What if I still don't accept the Ombudsman's decision?**

If you reject our decision, it will lapse. If the consumer wishes to take further action, this avenue remains open. No legal rights are affected by our decision, however, the Ombudsman's decision may be considered by a Court.

### **Can I see details of the awards you have made in other cases?**

No. Our decisions remain strictly confidential between the parties involved and BAR who will be notified of the outcome as part of their ongoing endorsement process. We will only disclose details of our decisions to the Ombudsman Standards Board and any other body that is relevant with regard to the administration of our work. We will not disclose any of the details to anyone else.

### **How many consumers win their case?**

To review our most recent set of statistics relating to case outcomes and average case times please visit the Case Statistics page on our website or refer to our latest Annual Review.

### **How is The Furniture Ombudsman independent?**

#### **Board of Directors**

Comprising a Chair and a majority of non-executive directors, the Board is responsible for appointing the Chief Ombudsman and providing governance. The Board also helps to safeguard the Ombudsman's interests so that it is free to operate effectively and independently.

### **The Ombudsman Standards Board**

To help preserve our independence and provide an invaluable set of checks and balances on our work, the Ombudsman Standards Board acts to regulate how we operate. All Board Members share our vision of inspiring consumer confidence and raising industry standards and do so on a voluntary basis. Governed by a set of bye-laws, the Standards Board regularly reviews a cross section of our adjudications, to ensure they are both fair and reasonable. It also oversees our rules, practices and procedures.

### **Our Staff**

Our team of Ombudsmen hold legal and professional qualifications in Alternative Dispute Resolution and have amassed several years of experience in the law and resolving complex consumer disputes. All of our staff are expected to abide by our Values which represent how we approach all aspects of our work and demonstrate our commitment to everyone involved with our service.

### **The Ombudsman Association**

The Ombudsman is a full member of the Ombudsman Association. This voluntary membership helps us to illustrate our commitment to integrity and independence.

### **Is the Ombudsman approved by Government to provide Alternative Dispute Resolution services?**

Yes. We are approved by the Chartered Trading Standards Institute (the Competent Authority) to provide our services under the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015. You will see our services listed, here: [www.tradingstandards.uk/advice/ADRApprovedBodies.cfm](http://www.tradingstandards.uk/advice/ADRApprovedBodies.cfm)

### **How is the Ombudsman funded?**

The Ombudsman is a not-for-profit organisation which, like many other schemes, is funded largely by the fees that we charge the businesses who are registered with us. This helps us to ensure that our dispute resolution service remains free for consumers to use. Our independent status is preserved by our Board of Directors, Standards Board and is also fundamental to our approved status under the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015.

### **Dispute Resolution Ombudsman**

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