



Chartered Trading  
Standards Institute

Leon Livermore  
Chief Executive  
Chartered Trading Standards Institute  
1 Sylvan Court, Sylvan Way  
Southfields Business Park  
Basildon, Essex, SS15 6TH  
Telephone: 01268 582202  
Mobile: 07809 306300  
E-Mail: leonl@tsi.org.uk

The Rt Hon Sajid Javid MP  
Secretary of State for Business,  
Innovation and Skills  
Department for Business, Innovation and Skills  
1 Victoria Street  
London  
SW1H 0ET

8<sup>th</sup> July 2016

Dear Minister

In 2015 the Chartered Trading Standards Institute (CTSI) was appointed as a 'competent authority' under The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015. The role sees the Institute auditing alternative dispute resolution (ADR) bodies for compliance with quality criteria, as laid down by the regulations. The regulations implement EU legislation Directive on consumer ADR. The regulations also saw a number of regulators established as competent authorities in their sectors. Part of the CTSI role would be to coordinate this competent authority group, acting as a single point of contact for extensive reporting requirements, with the EU Commission.

BIS policy at the time required that the cost of establishing this competent authority role, and of the subsequent and ongoing audits, not be a cost to government. CTSI would be allowed to charge the applicant ADR bodies a fee to cover the activities of the role. These charges were required to be structured on no more than a cost recovery basis and the competent authority would need to confirm the level of these fees, with the secretary of state, annually.

This letter explains how the CTSI fees are structured, activities (and therefore costs) under this project up to and including April 2015, and plans for activities and charging levels for the next year.

The regulations allow fees to be structured in two parts:

Part one is a charge, set at £750 per eight hours (pro rata), to cover the cost of the actual auditing of the applicant body (regulation 9).

In addition to the cost of the individual auditor, this element also pays for the administration of the auditors and audits, training and recruitment of auditors, quality monitoring and accounting and invoicing.

The specific audit function is structured as follows:

The ADR makes contact and its current provision and aspirations are discussed in detail. In an attempt to avoid unnecessary costs to applicants there is a detailed discussion around planned charges to consumers and around the qualification of ADR officials. Experience has shown that these two issues are the issues where applicants ultimately refuse to meet the requirements of the legislation and pull out of the audit process. This conversation can be spread across several days or even weeks as representatives go away to discuss suggested changes with their governance. If an applicant withdraws at this point CTSI does not charge for the audit work under either element.

If the applicant decides to go forward and seek approval the following process is undertaken:

1. The ADR body is put in contact with a specific auditor who will conduct a, usually, desk based audit of their written processes. In year one this audit is against all criteria as laid down by the legislation.

In years two and three, in a further effort to reduce fees to the applicant bodies, CTSI plans to try and limit this to one day of auditing examining issues raised in the previous year's monitoring as in need of monitoring and a detailed check of the organisations fulfilment of the annual reporting requirements.

2. The auditor's report is submitted to a lead auditor whose role is to check the application and to ensure consistency across our auditor group.
3. The audit is then signed off by CTSI audit staff and a letter confirming approval is sent from our CEO.
4. Our governance structure also provides an appeal mechanism through the CEO and then the CTSI board. Currently no one has appealed to the board but a number of enquiries have gone to the CEO.

Of the total charge allocated to the auditing process the specific audit element costs CTSI about 50% of the overall daily rate of £750 or around £1,070 of the total cost of the individual approval process. Costs of the other three elements make up the remaining £1,070 cost per audit.

The second part of the charge is a 'periodic charge' of £2,000 per approval, to fund the other activities of the competent authority including coordinating the reporting function of all competent authorities, acting as the single point of contact with the European Commission.

These functions are required by the legislation and have proved to take considerable time. CTSI is also tasked, by BIS, with the leading of work to ensure consistency, where possible, across the wider group of competent authorities. As each competent authority has autonomy in deciding how to deliver their competent authority function, and all have been busy during this implementation phase, work on this issue has been minimal so far and stopping it would not reduce the overall cost of the work. CTSI does however believe that, in the longer term, there is need to be able show mechanisms are in place to ensure consistency of approach.

This element also covers the administration of general questions and enquiries about approval. This task is currently staffed with the equivalent of one staff member for one day per week at a cost of around £8k per year. It is not thought that the competent authority function could be carried out without this mechanism.

Additionally this element provides for the CTSI governance and oversight of the project and there is significant spending on the reactive work of dealing with questions and complaints

about the new systems. These issues are usually raised by senior stakeholders including MPs, BIS itself and other government departments, and journalists. Recent issues with the Retail Ombudsman and the Independent Parking Committee have managed to rise to the higher levels of our governance and we have also spent considerable time liaising with BIS to assist you in dealing with the same issues raised with you. The nature of the project means that these tasks are unavoidable as many questions are raised by the simple existence of the approval process.

Alongside this reactive work the Institute takes every opportunity to be proactive in raising awareness of the approval process and the wider consumer ADR environment. There is significant need for education and awareness raising activity around the ADR project and CTSI activity on this is coincidental to our wider work, generally done at no cost and therefore a significant benefit to the project, in working with CTSI.

Awareness raising work continues to be important as our consultation has shown that although there is technical compliance with the legislation in that one or two generalists have undertaken to take any complaint, the cost and structures of current models have made these offering unattractive to traders, who are therefore not using them. There needs to be many more bodies approved so that competition drives innovation of model and a downward pressure on cost. The current and foreseeable environment requires awareness raising activity and a source of answers to enquiries to ensure this growth in competition.

To date total income from both elements of the charge has been £99,351.55. This is made up of £48,000 from the periodic charge and £51,351.55 from the charges for actual auditing.

In procuring the role CTSI estimated that there would be around 40 bodies applying and based on this, each audit would cost between £6,000 and £10,000 depending on the size and complexity of the applicant. CTSI undertook to keep the audit process robust but as simple as possible in order to reduce, as far as possible the charges for audit. In the year to date the actual, average cost of individual audits has been £4,140.

Since the inception of the project in May 2015, CTSI has approved 25 ADR bodies. Key successes include:

- Delivery of the requirement, placed upon government, to provide universal ADR coverage capable of dealing with disputes across all consumer sectors
- Every audit has seen the applicant body make improvements to their processes, as measured by the quality criteria of the regulations.
- Other than charges, the operational impact, of the actual audit process, on applicant bodies has been minimal.
- Individual cost has been below that estimated in almost every case.
- Most applicants have reduced their fees to consumers and 19 of the 25 so far approved, are now free to consumers.
- Approved and supported new bodies to work in sectors where there was no previous sector specific ADR.
- CTSI has also begun to work with new potential applicants, including new businesses, thereby introducing more competition into the consumer ADR environment.
- Significantly raised awareness of the new legislation with existing ADR bodies, Consumers, Traders and the Trading Standards service.

Illustrative recent activities, outside of individual audits include:

- Hosting and delivering a quality workshop for our auditor group capturing lessons learned and helping to ensure consistency
- Attending an ADR conference at Oxford University to raise awareness and consult on fees.

- Chairing a competent authority meeting to share learning and ensure consistency
- Meeting with Ombudsman Services to consult on fees, their audit experience, consistency between competent authorities, and agree joint working to raise awareness
- Meeting with the Retail Ombudsman to consult on fees and their audit experience and agree joint working to raise awareness.
- Attending and presenting at five Chartered Trading Institute regional branch meetings
- Two meetings with Citizens Advice Consumer Helpline to improve customer journeys
- Preparing for the CTSI annual conference where the teams focus will be on raising awareness and consulting on improvements.

Year two and year three are likely to see a reduction in fees to the previously approved bodies as it is CTSI's intention to look for further simplify the audit process. As all approvals were first approvals, it is planned to look at any concerns that could not originally be resolved through historical data, as there was none. Similarly the auditors will examine the organisations compliance with the annual reporting requirements placed upon them, again, not auditable at first audit. Additionally the auditor will consider any concerns raised through the year.

It is hoped that, by limiting year two and three audits to these elements, the system will remain robust but costs will be minimised. It is impossible to be entirely accurate with a costing as total workload per audit is very reliant on how well the ADR body responds to the auditor. It is however, hoped that, in most instances, we will be able to reduce the total cost to around £3000, this being made up of the £2000 periodic charge plus charges for an estimated 1-1.5 days of auditing.

Outside of audits it is likely that activities will continue in a similar vein as over the past year. Some additional identified activities include:

- Working with the ADR bodies to improve their compliance with the ODR regulations
- Working with ADR bodies and the other competent authorities to ensure reporting requirements are met. (As required of the competent authority by the regulations/directive)
- Working with the ADR bodies to identify and share best practice
- Coordinating the competent authority group to ensure appropriate consistency going forward. (This work will be essential to the robust delivery of the system and a lack of such a mechanism would leave the entire system open to public criticism)
- Work with the Trading Standards service to look for opportunities to approve their various approved trader schemes such as buy with confidence.

Fees to new applicants will continue be structured in the same way as this year's audits and likely to average around the same £4,140.

Both CTSI and BIS have agreed to review the CTSI role, as competent authority, after three years. It is CTSI stated position that we intend to start the cycle of approvals again with a full audit for applicants as they seek their fourth annual approval. This would be followed by simplified year five and six audits repeating the original cycle.

The currently agreed fee structure is entirely based on the requirement for CTSI to recover all costs (but no more than this) from the approval programme. In the initial procurement CTSI modelled its charges on an estimated forty bodies seeking annual approval over a three year cycle. We also estimated a £6k to £10k charge per audit. As the actual figures so far have been 25 approvals at an average cost of £4,140 CTSI does not believe there is scope to reduce the fees if there is to be full cost recovery. In reality we have worked hard to reduce our overall fees against our estimates and we do not believe that further reductions are possible without either affecting the robustness of the programme or removing our ability to fully cost recover.

Whilst this level of fees is significantly less than initially estimated, CTSI has consulted widely across the ADR environment and believe there are many more bodies who would like to be approved but are put off by the cost.

New entrants into the consumer ADR environment and improvements in processes driven by the audit process itself, may well see charges to traders, by the ADR bodies, reduce in the long term. However, in the short term there is a problem of ADR bodies passing on the cost of audit in their charge to traders. These increased costs, as they are generally charged on a case by case basis, have the potential to discourage use of, what is currently a voluntary system.

Whilst the CTSI costs remain the same the only way to reduce fees would be to find another source of funding. It is suggested that funding the periodic fee, outside of the current charging regime, could reduce fees to a level where significantly more bodies would apply for approval. In turn this would result in greater competition and a possible reduction to the charges made to traders. This might eventually be seen as seed funding as, as the number of annual approvals rises it may be possible to start reducing the charges for Approval as the cost of the CTSI back office functions are spread over a greater number of audits.

Other than concerns about charges feedback from ADR bodies have been positive, with many increasing their workloads and extending their scope. The ADR bodies have raised no concerns about the nature or impacts of the actual audit processes. Some concerns were raised about the delivery of the reporting requirements of the directive but these all relate to the EU Commission processes rather than the UK implementation. CTSI routinely sends such feedback to the Commission.

Finally it is important to put comments about charges and complaints about some aspects of the project into some context. There has been a large amount of comment and work generated by two specific approvals. At time of writing the vast majority of approvals have been done without controversy and with minimum impact. Feedback on these has been positive and most are now beginning to see the benefits of approval. This is however a first step and to date several business models have been tried and we are sure to see a rationalisation and possibly a simplification of the environment as new learning is incorporated.

CTSI has worked hard to reduce charges and will continue to contribute to the learning that will ultimately see the benefits of approval more commonly recognised as outweighing the cost of audit. In light of the decision that the legislation should be implemented without cost to government, we believe the current level of charges represent very good value to the ADR environment. However we also feel that we have not yet reached a level of true cost recovery by CTSI so do not foresee an opportunity to reduce fees until there are significantly more annual approvals across which to spread our costs.

Yours sincerely



Leon Livermore  
Chief Executive

Cc: Robert Scott, Policy Advisor, European Consumer policy, BIS