



Department for
Business, Energy
& Industrial Strategy

RESOLVING CONSUMER DISPUTES

Alternative Dispute Resolution and the
Court System

Final Report



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Contents	
Executive summary	2
Introduction	6
Background and context	9
Overview of the ADR and courts consumer journey	9
Sampling approach for the survey of consumers and traders	12
Profile of consumers and traders surveyed	14
Impact of ADR and the courts on consumers and traders	17
Consumer redress	28
The outcomes sought by consumers using ADR/courts	28
Outcome of ADR/court cases	31
Financial awards made to consumers	32
Implementation of ADR/court decisions	36
Likely outcome without going to ADR/courts	37
Impact of ADR/court cases on traders' practices	38
Consumers' and traders' experience with the dispute resolution process	17
Likelihood of using ADR and the courts again in future	17
Simplicity of the dispute resolution process	18
Perceived fairness of the dispute resolution process	19
Problems experienced with the dispute resolution process	20
Cost of taking disputes to courts and ADR	23
Personal time required to use the courts/ADR	25
Duration of the courts and ADR process	26
Consumers' choice of ADR or the courts to resolve their dispute	43
Consumer awareness of ADR and the courts	43
Value of dispute and choice of courts and ADR	44
Why were disputes taken to courts and not resolved by ADR instead?	46
Reasons for choosing ADR over the courts	49
Indicators for monitoring the effectiveness of ADR in future	51
ANNEXES	55
Methodology	55
List of identified ADR schemes	60

Executive summary

Introduction

This report has been prepared by ICF Consulting Services Limited (ICF) for a Department for Business, Energy and Industrial Strategy (BEIS) study to assess the impact and effectiveness of alternative dispute resolution (ADR) and the courts¹ in resolving consumer disputes with traders. The specific objectives of the study are to:

- Assess the effectiveness and impact of the courts and ADR in resolving consumer disputes; and
- Suggest indicators which could be used for ongoing monitoring of the effectiveness of consumer ADR in the UK.

Methodology

This study is primarily based on a quantitative survey of consumers and traders that used ADR and the courts to resolve a consumer dispute. We surveyed 200 consumers who had used ADR services to address a consumer dispute as well as 200 consumers and 176 traders who had used the court system.

Several additional data sources were used to build the evidence base for the study, including in-depth qualitative interviews with consumers and traders and an online survey of ADR providers.

Study findings

Consumers' and traders' experience with the dispute resolution process

This study found that most consumers who used ADR or the courts had a good experience. 76% of consumers who used the courts and 69% of consumers who used ADR said they were likely to do so again if they experienced a similar problem in future. Where the outcome of the case was in favour of the trader or a compromise these figures dropped to 66% and 43% respectively.

The study further highlighted that both resolution processes were mostly perceived to be simple and fair. Overall, 62% of consumers who used ADR found the process simple, as did 53% of consumers that used the courts. Perceptions of fairness were highly correlated

¹ UK Civil courts, see Background section

with the outcome of the case. For example, in cases where the ADR provider decided in favour of the consumer 83% of consumers perceived the process to be fair. This dropped to 17% in cases where the decision was in favour of the trader or a compromise. A similar, but less extreme, variation was seen for consumers who had used the courts (90% v. 53%).

Most consumers and traders did not experience any problems in using ADR or the courts, although a larger proportion of consumers who used ADR (46%) reported a problem than consumers who used the courts (16%) or traders who used the courts (22%). It's unclear whether this difference is due to differences in the characteristics of consumers who use ADR and courts, or different expectations for these services (for example, although ADR is usually quicker than the courts, consumers were more likely to say that the ADR process took longer than anticipated), or if it reflects genuine differences in the consumer experience.

The most common problems encountered when using the courts include a longer duration than expected and a lack of communication and information on the process. The problems most often cited by consumers who used ADR were having to follow up several times with the ADR provider and a perception that the process favoured the trader (in particular in cases where the decision was taken in favour of the trader).

Regardless of the redress mechanism chosen, traders tend to honour the agreement reached. Where the ADR provider had found in favour of the consumer, 93% of consumers reported that the trader had implemented the decision. For court cases found in favour of the consumer, 84% of decisions were reported by the consumer to have been implemented.

Results from the survey of consumers indicate that the ADR process is quicker than the court process and cheaper for consumers. 44% of ADR cases lasted less than three months, compared to 34% of court cases. In addition, 81% of consumers who used ADR reported a direct cost of under £50 whereas 59% of consumers who used the courts reported a cost of over £100.

Impact of ADR and the courts on consumers and traders

This study highlights the large impact that the courts and ADR can have in helping consumers obtain redress. Our survey found that, for disputes settled in favour of the consumer, over 90% of consumers were offered compensation following the court or ADR process. This compares to 13% of consumers who were offered compensation before going to ADR, and 29% of consumers who were offered compensation before going to court. Overall, 80% of consumers who used ADR and 91% of consumers who used the courts thought that their problem would not have been solved without taking their problem to ADR/court.

This study also examined the impact of the ADR/court decision on traders' complaint handling processes and business practices. The study found that 19% of traders made

changes to their complaints-handling processes following a court case while 35% changed business practices. Examples of the changes made include clearer terms and conditions of purchase as a result of using the courts, or quicker reaction to customer complaints and a more customer oriented approach following their ADR experience.

Characteristics of consumers using the courts and ADR

Our survey indicated that the characteristics of consumers that took a dispute to ADR or to court are very different to the general consumer population. Of the consumers who had used ADR, 69% were male, 69% were over 50 years old, 66% held a degree level qualification or higher, and 42% reported a household income about £50,000 (of those that reported an income). Consumers who had used the courts reported similar characteristics.

Most consumers in our sample used ADR to resolve a communications, energy, professional or financial services problem. Since the consumers of these services are often home owners, who we might expect to be older and have higher incomes than the overall population, it is unsurprising that the users of ADR also share some of these characteristics. Even so, the findings do indicate that some groups of consumers may not be benefitting from ADR and the courts as much as others.

Consumers' choice of ADR or the courts to resolve their dispute

Consumers consult a variety of sources of information when choosing a redress option with the most prominent being the consumer's own knowledge and research (over 90% of consumers found out about ADR and the courts in this way) followed by information from the trader itself in the case of ADR (37% of consumers using ADR received information from the trader) and information from Citizens Advice in the case of courts (25% of consumers using the courts obtained information from Citizens Advice).

For disputes that consumers took to court, this study sought to establish why ADR wasn't used or, if it was, why it wasn't successful. Our survey found that 33% of consumers and 54% of traders who used the courts reported that they had used ADR before going to court.

The reasons cited as to why ADR did not solve the problem vary between traders and consumers. For traders, the main reasons relate to the lack of agreement or decision made or the customer's refusal to accept the offer (each reason was cited by 32% of traders). For consumers, the most common reason cited was that the trader did not comply with the agreement (cited by 52% of consumers).

The most common reasons given by consumers for not using ADR were that the trader refused to participate (70% of consumers who didn't use ADR beforehand), followed by a lack of confidence that ADR would be effective (13%), a lack of response from the ADR provider (7%), and being unaware that ADR was available (5%).

Indicators for monitoring the effectiveness of ADR in future

The outcomes identified in this study were translated into specific indicators which could be used to monitor the impact and effectiveness of consumer ADR in the UK, following the introduction of the ADR Directive. Table 1 lists the indicators suggested for future monitoring of ADR.

Table 1 Indicators for monitoring

Category	Indicator	Estimate from this survey ²
Awareness and accessibility of ADR	Proportion of consumers who used ADR who received information on ADR provider(s) from the relevant trader	37%
	Proportion of ADR providers that charge a fee	12%-18%
	Average consumer fee paid to access ADR procedures (excluding free schemes)	£90-£103 (excluding £0 fee schemes)
	Proportion of ADR cases involving protected/vulnerable consumers	12% of consumers using ADR are from low income households. 4% of consumers using ADR have no educational qualification. 1% of consumers using ADR are aged 16-24 years. 28% of consumers using ADR are aged 65 or more.
	Proportion of consumers who are aware of ADR	Regulated sectors: 28% ³ Non-regulated sectors: 16%
Take up of ADR	Proportion of disputes which are taken to ADR	14% (energy disputes only) ⁴
	Proportion of court cases that went to ADR beforehand	43% of cases
	Proportion of court cases which are of low value	4% of court cases are cases with compensation below £100. 28% of court cases are cases with compensation below £500.
Consumer experience of ADR	Proportion of consumers likely to use ADR again	69% likelihood to use ADR again
	Proportion of consumers experiencing a problem while using ADR	46%
	Average duration of ADR processes	1-3 months
	Proportion of cases lasting more than 90 days	41%
	Proportion of ADR decisions honoured by traders	84% (16% were honoured in part)
	Proportion of consumers who find the ADR process simple/complicated	Find the process simple: 62% Find the process complicated: 22%

² Some of these estimates are obtained from other sources. Where this is the case the appropriate source is provided in footnotes.

³ Citizens Advice 2016. Understanding consumer experiences of complaint handling.

⁴ BEIS Public Attitudes Tracker wave 24.

Introduction

This report has been prepared by ICF Consulting Services Limited (ICF) for a Department for Business, Energy and Industrial Strategy (BEIS) study to assess the impact and effectiveness of alternative dispute resolution (ADR) and the courts⁵ in resolving consumer disputes with traders. This first section explains the objectives of the study and the approach taken for this study.

Objectives of the study

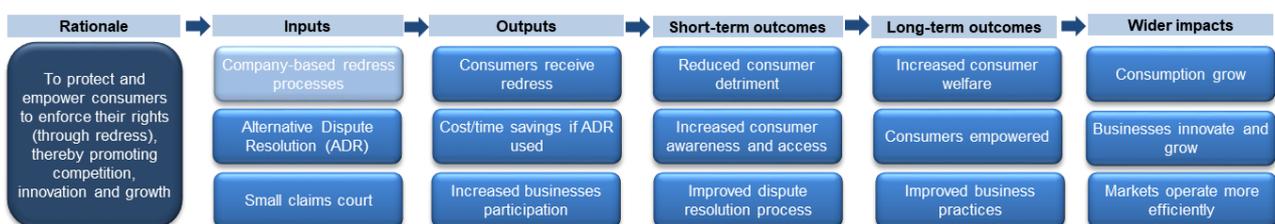
The objective of the study was to assess the impact and effectiveness of the court system and ADR. The specific objectives of the study are to:

- Assess the effectiveness and impact of the courts and ADR in resolving consumer disputes; and
- Suggest indicators which could be used for ongoing monitoring of the effectiveness of consumer ADR in the UK.

The outputs of this research will inform BEIS' future policy on consumer detriment and dispute resolution, strengthening its evidence base on the effectiveness of the dispute resolution landscape.

The overarching conceptual approach to meeting these study objectives is presented below in Figure 1.

Figure 1 Overarching conceptual framework: high-level logic model



Source: ICF

⁵ UK Civil courts, see Background section

The study methodology

This section summarises the study method. Further information on the method can be found in the Annex (p. 55).

A variety of data sources were used to build the evidence base for the study:

- **Online survey of ADR providers:** a short online questionnaire was sent to 89 ADR providers. Seventeen completed questionnaires were received representing a response rate of 19 per cent. The questionnaire focused on gathering quantitative data and evidence on previous ADR cases, covering the volume of cases, value of redress, duration of processes, outcomes, and average fees. It also covered the views of ADR providers on systemic issues and changes in trader practices as a result of ADR cases.
- **Qualitative interviews with ADR providers:** interviews with seven ADR providers were conducted to gather additional qualitative information to complement the data from the online questionnaire. The interviews covered how providers identify and address systemic issues, how they engage with third-parties and other stakeholders, whether and how traders respond to ADR decisions, how ADR providers interact with each other and barriers consumers face in accessing these processes.
- **Quantitative survey of consumers and traders that used ADR and the courts:** quantitative surveys of consumers and traders were conducted using Computer Assisted Telephone Interviewing (CATI). Two-hundred consumers who had used ADR services to address a consumer dispute were consulted as well as 200 consumers and 176 traders who had used the court system.
- **In-depth qualitative interviews with consumers and traders:** interviews were conducted with three consumers and six traders that used ADR. The aim of these interviews was to gather additional in-depth qualitative information to complement the survey data.
- **Qualitative interviews with legal experts:** of the 15 legal experts⁶ contacted, three agreed to an interview. The aim of the qualitative interviews with legal experts was to understand the types of cases often brought to courts (and if a 'typology' can be derived from these cases), barriers to consumers accessing the courts, the time and cost of a case (and how this contrasts with alternatives to courts), whether traders comply with court rulings and suggestions for how the system can be improved.

Complementary research methods were used to enhance the robustness of the data collected and to provide the basis for cross-verification, corroboration and triangulation of

⁶ In the context of this study, legal expert refers to lawyer specialised in consumer law.

the study results. However, as with any study, there were limitations to the methodology applied, including:

- the low response rate from the ADR provider survey means that the data are not necessarily representative as all sectors were not covered and, therefore, findings should be interpreted with a degree of caution;
- the ADR CATI surveys and the court CATI survey were undertaken more than 12 months apart as a result of unanticipated delays in receiving the court sample data, which means that the ADR and court survey data do not relate to the same period in time, this should be kept in mind when interpreting the data; and
- the in-depth interviews are intended to be illustrative only given the small number of interviews undertaken.

Given these methodological caveats and limitations, caution was exercised when interpreting data and producing the study findings. ICF clearly states, in the present report, where the evidence supporting findings is less strong.

It should also be noted that although responses provided by consumers regarding the courts and ADR are often presented side by side, the sample is different for each survey and so the results are not directly comparable. For example, the characteristics of consumers who use the courts may differ from those that use ADR, and thus they may have different expectations or perceptions.

Background and context

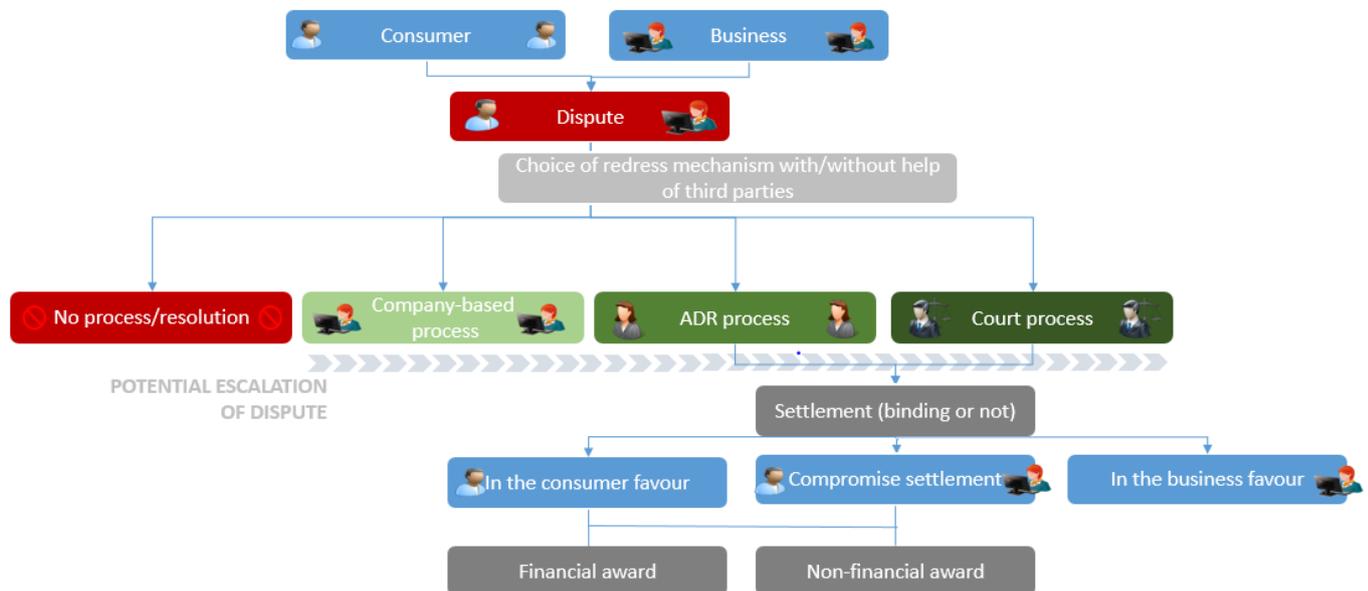
The court system and ADR enable consumers to enforce their rights when things go wrong and where liability is contested, or the supplier is unwilling to make good on their obligations. They give consumers options for seeking redress and create incentives for traders to comply with consumer protection legislation.

This section provides an overview of the ADR and courts in the United Kingdom (UK).

Overview of the ADR and courts consumer journey

Figure 2 is a simplified representation of the consumer journey through the existing options available to resolve a consumer rights dispute in the UK alongside the likely impacts as identified in this study.

Figure 2 Consumer journey



Source: ICF

Overview of the ADR landscape in the UK

What is an ADR scheme?

Consumer redress is a remedy for a wrong arising from a contract or other relationship between a consumer and trader⁷. Consumers who experience a problem and wish to obtain redress generally use the trader's in-house complaints procedure as the first step⁸. However, if the consumer has exhausted the complaints process of the trader and the response is unsatisfactory, consumers may then refer the matter to an ADR scheme. ADR processes can include mediation, conciliation, arbitration, adjudication or ombudsman schemes⁹. In some sectors it is mandatory for traders to participate in ADR if a consumer has referred a valid dispute. In other sectors the trader can choose whether or not to participate in ADR.

In 2015, there were approximately 95 ADR schemes in operation in the UK offering a range of dispute resolution processes (described in further detail below)¹⁰. Of these, some are statutory schemes, which typically cover regulated sectors (for example, financial services, energy and telecommunications) with ADR provided by public and private bodies¹¹. A list of identified schemes can be found in the annex (see p. 60), which categorises these schemes by sector.

ADR membership in regulated sectors is often compulsory, whereas ADR provision in non-regulated sectors is typically voluntary for traders, and is often provided by trade associations that either offer in-house resolution or refer disputes to external ADR bodies or private ADR providers¹². In some cases, there are several voluntary ADR schemes operating in the same sector. If traders choose to take part in one of these voluntary schemes, they can choose which independent scheme to become a part of¹³.

Table 2 provides definitions of the different types of ADR resolution processes. The particular dispute resolution methods employed, and the costs to the parties involved, vary by provider and sector¹⁴.

⁷ OFT. 2010. 'Mapping UK consumer redress: A summary guide to dispute resolution systems'. See Page 1.

⁸ Gill, C., Williams, J., Brenna, C & Hirst, C. 2014. 'Models of Alternative Dispute Resolution (ADR): A report for the Legal Ombudsman'. See Page 17-18.

⁹ Gill, C., Williams, J., Brenna, C & Hirst, C. 2014. 'Models of Alternative Dispute Resolution (ADR): A report for the Legal Ombudsman'. See Page 17-18.

¹⁰ A more recent study by Citizens Advice identified 147 schemes. The list can be found here: [https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/AppendixD-MapofADRProvidersintheUK.docx%20\(3\).pdf](https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/AppendixD-MapofADRProvidersintheUK.docx%20(3).pdf)

¹¹ Examples of public bodies include the Financial Ombudsman Service and the Legal Ombudsman. Private bodies include Ombudsman Services e.g. for the energy, telecommunication, property and copyright licensing sectors.

¹² BIS. 2014. 'Implementing the Alternative Dispute Resolution Directive and Online Dispute Resolution Regulation – Impact Assessment'. See page 10.

¹³ BIS. 2014. 'Implementing the Alternative Dispute Resolution Directive and Online Dispute Resolution Regulation – Consultation'. See page 16.

¹⁴ BIS. 2014. 'Implementing the Alternative Dispute Resolution Directive and Online Dispute Resolution Regulation – Impact Assessment'. See page 10.

Table 2 Definition of ADR processes

Type of ADR	Description
Mediation	A confidential process where an independent third party helps the people in dispute reach an agreement.
Conciliation	Similar to mediation, but the independent third party has a more active role in suggesting what agreement should be reached.
Arbitration	Arbitration is a binding process where an independent third party evaluates a dispute and decides how it should be resolved.
Adjudication	adjudication is like arbitration, but usually produces a decision that is only binding on the business, not the consumer.
Ombudsman schemes	Ombudsman schemes are independent third parties who consider complaints and usually combine fact-finding, mediation, and adjudication.

Source: Citizens Advice. 2017. *A consumer perspective on alternative dispute resolution between consumers and businesses.*

Further changes to the ADR landscape in the UK came into force on 1 October 2015 following the transposition of the EU Directive on ADR and ODR (Online Dispute Resolution), requiring the UK Government to ensure ADR provided by a certified ADR body is available for any dispute concerning contractual obligations between a consumer and a trader. It does not require the UK Government to make trader participation in ADR mandatory, although it does require them to ensure it is available¹⁵.

Overview of the courts landscape in the UK

In the UK, the county court deals with civil cases. Consumer claims potentially go through three different tracks when they are taken to civil courts¹⁶:

- a small claims track, for claims up to £10,000 for England and Wales and up to £3,000 for Scotland and Northern Ireland¹⁷;
- a fast track claim, for claims of between £10,000 and £25,000; and
- a multi-track claim, for all claims over £25,000.

¹⁵ BIS. 2014. 'Implementing the Alternative Dispute Resolution Directive and Online Dispute Resolution Regulation – Consultation'. See page 17.

¹⁶ Citizens Advice. 'Before you take someone to court' Available at: <https://www.citizensadvice.org.uk/consumer/taking-action-about-consumer-problems/legal-action/going-to-court/before-you-take-someone-to-court/>

¹⁷ Which. 2015. 'When should I use the small claims court?'. Available at: <http://www.which.co.uk/consumer-rights/problem/when-should-i-use-the-small-claims-court->

The majority of consumer complaints going to the courts will opt to go through a small claims track. However, even if some claims are within the value range of a small claims track, a judge may rule that the case is too complex and the complainant will have to take an alternative route through the courts¹⁸.

What are small claims?

Small claims are lower value civil cases, rather than disputes of complexity or high value. Typically, small claims are for compensation for faulty services provided, for example, by builders, dry cleaners, or compensation for faulty goods such as washing machines, televisions or for unpaid bills. They also include disputes between landlords and tenants – for example, rent arrears or compensation for not doing repairs, road traffic accident claims, or wages owed¹⁹.

Court claims are usually used as a last resort, in those cases when the trader in question is not required to use ADR and has chosen not to, the consumer has a reluctant witness, who can only be obliged to testify by a court order, high value claims (ADR claims can have a limit for compensations), or if the ADR decision has been rejected by the consumer or not honoured by the trader²⁰.

Sampling approach for the survey of consumers and traders

We obtained a sample frame from HM Courts and Tribunal Service and several ADR providers to enable us to survey consumers and traders who had used ADR and the court system. The sample frames obtained were not representative of all consumer problems that were taken to the courts or ADR. We only requested a sample from a small number of ADR providers while the sample obtained from HM Courts and Tribunal Service was obtained via keyword searches, not a random selection of all consumer disputes.

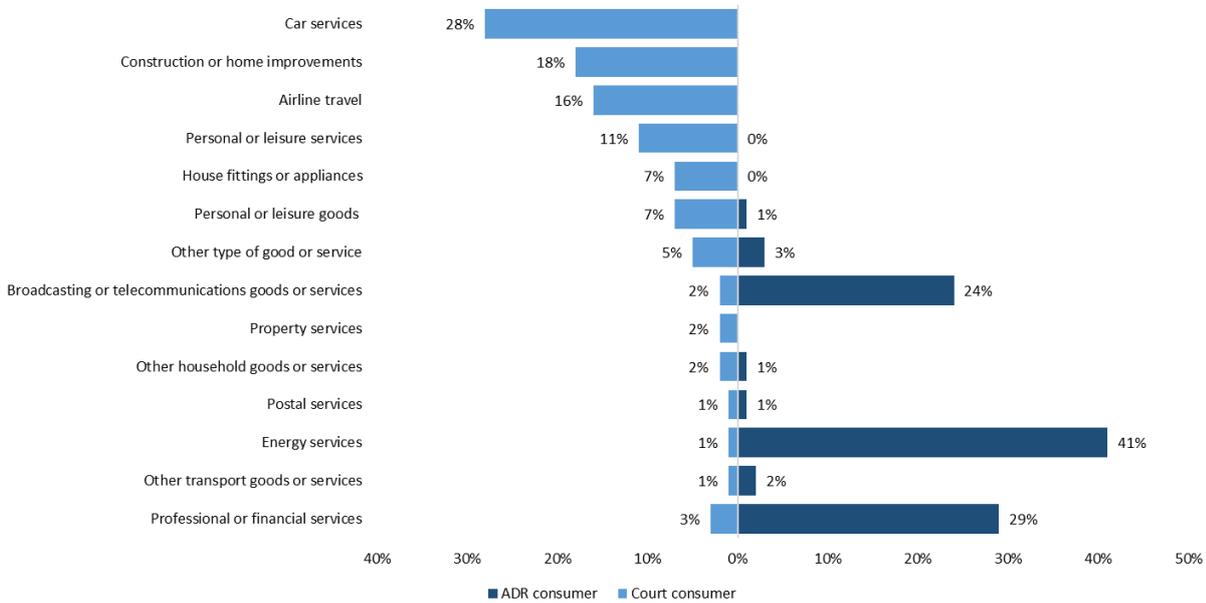
Figure 3 provides further detail on the sample used for the consumer surveys. It shows that, for the court service sample, disputes mainly relate to car services, construction or home improvements and airline travel while the ADR sample mainly consists of disputes regarding energy services, professional services and broadcasting or telecommunications.

¹⁸ Which. 2015. 'When should I use the small claims court?'. Available at: <http://www.which.co.uk/consumer-rights/problem/when-should-i-use-the-small-claims-court->

¹⁹ Civil Justice Council. 2013. A guide to bringing and defending a small claim. Available at: <https://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/CJC/Publications/Other+papers/Small+Claims+Guide+for+web+FINAL.pdf>

²⁰ 'Before you take someone to court' <https://www.citizensadvice.org.uk/law-and-courts/legal-system/taking-legal-action/small-claims/going-to-court/before-you-take-someone-to-court/>

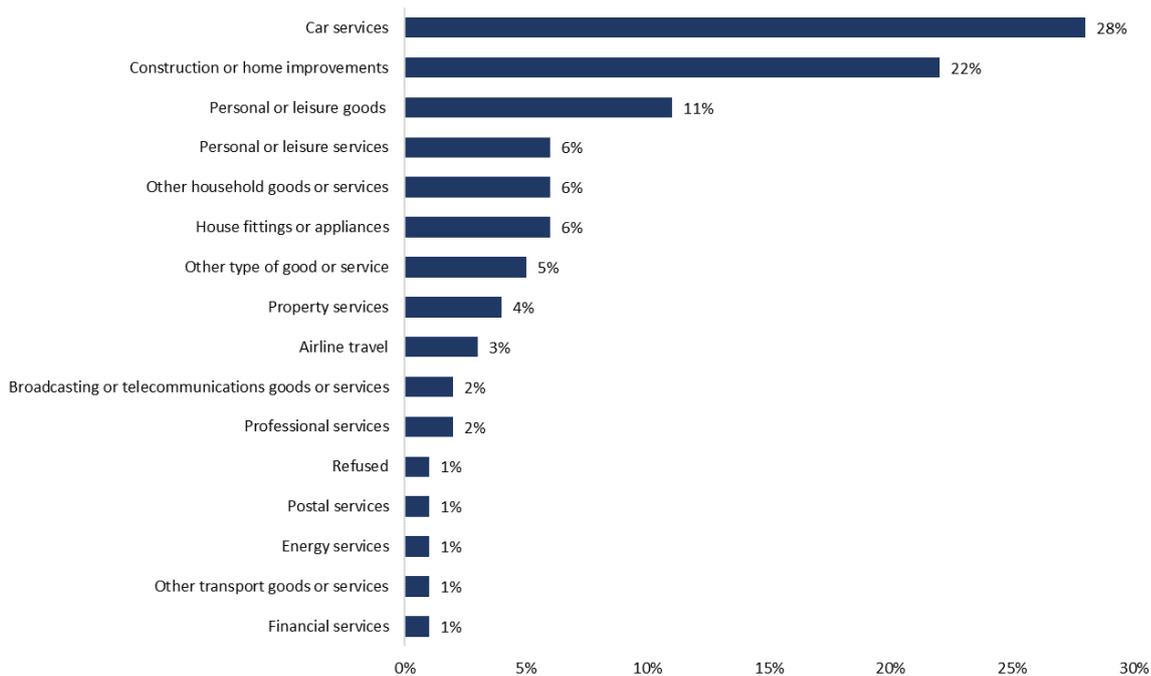
Figure 3 Types of goods and services consumers complaint about



Source: ICF. 2017. Court Consumer CATI. What type of good or service was your customer complaint about? [Q2]. N=200, and ICF. 2016. ADR Consumer CATI. What type of good or service was your customer complaint about? [Q2]. N=200

Figure 4 shows that the traders who participated in our survey were brought to court for complaints on a variety of goods and services mainly car services, construction and home improvements as well as personal or leisure goods.

Figure 4 Type of good or service customers complained about



ICF. 2017. Court Trader CATI. What type of good or service did your customer complained about [Q2]. N=176

Profile of consumers and traders surveyed

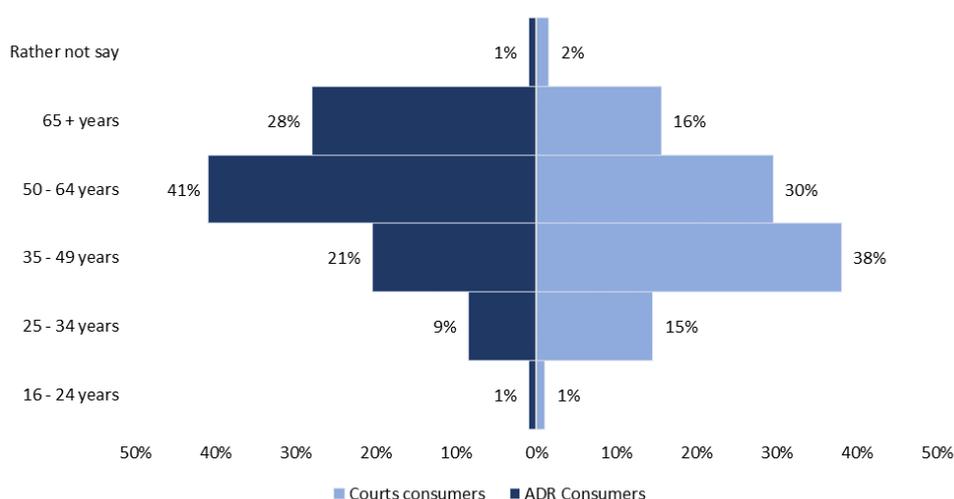
This section describes the characteristics of the consumers and traders who took part in the CATI survey.

Profile of consumers surveyed

A total of 400 consumers were surveyed including 200 consumers who used ADR as a means to seek redress and 200 who used the court system.

For both types of redress schemes, men constitute 69 per cent of the respondents while women represent 32 per cent of the respondents²¹. Figure 5 displays the age distribution of the consumers using ADR or courts. The highest share (41 per cent) of consumers that used ADR are between 50 and 64 years old while a further 28 per cent are above 65 years of age. For courts, consumers are typically aged between 35 and 64 years.

Figure 5 Age distribution among ADR/courts consumers

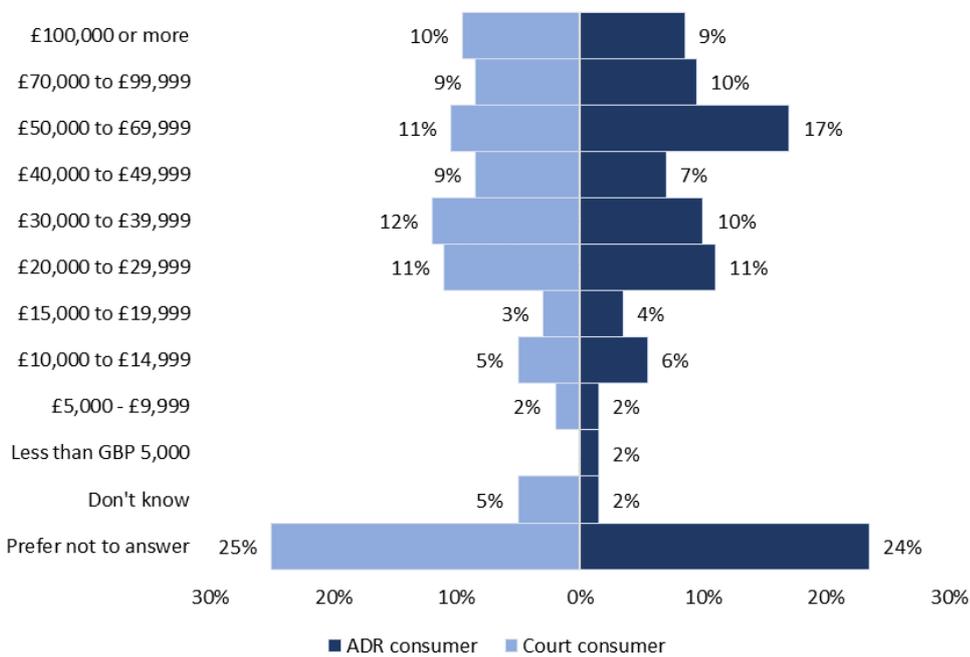


Source: ICF. 2017. Court Consumer CATI. Age [Q25]. N=200, and ICF. 2016. ADR Consumer CATI. Age [Q25]. N=200

Figure 6 displays the household income distribution among consumers using ADR and courts. The usage of ADR and courts is very low for consumers with a total household income of £19,999 or below. Consumers who use ADR and the courts are fairly evenly spread along the income distributions of £20,000 and above.

²¹ Source: ICF. 2017. Court Consumer CATI. Gender [Q24]. N=200, and ICF. 2016. ADR Consumer CATI. Gender [Q24]. N=200

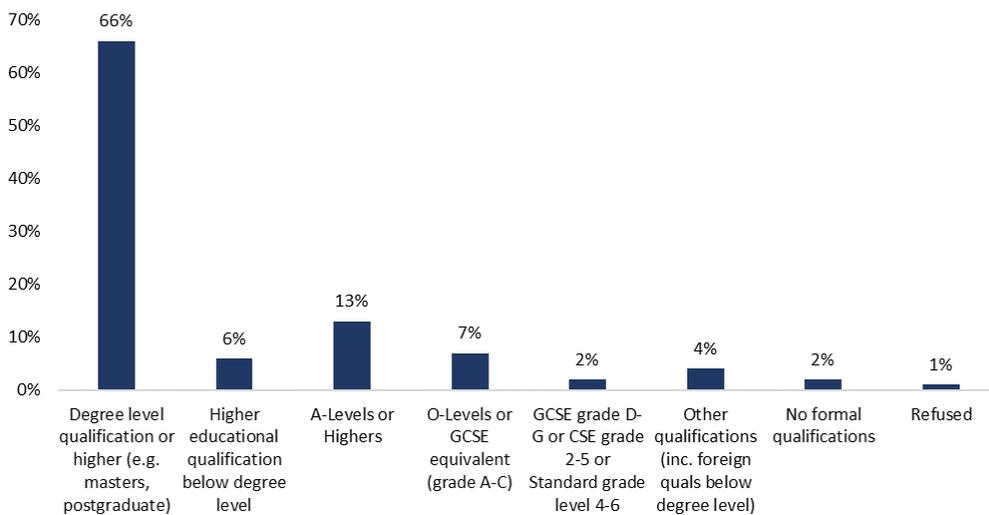
Figure 6 Household income distribution among ADR/courts consumers



Source: ICF. 2017. Court Consumer CATI. Total household income [Q27]. N=200, and ICF. 2016. ADR Consumer CATI. Total household income [Q27]. N=200

Regarding educational attainment, data is only available for consumers using ADR and is displayed in Figure 7 below. Two-thirds of respondents hold a degree level qualification or higher (e.g. masters or postgraduate).

Figure 7 Educational attainment among consumers using ADR

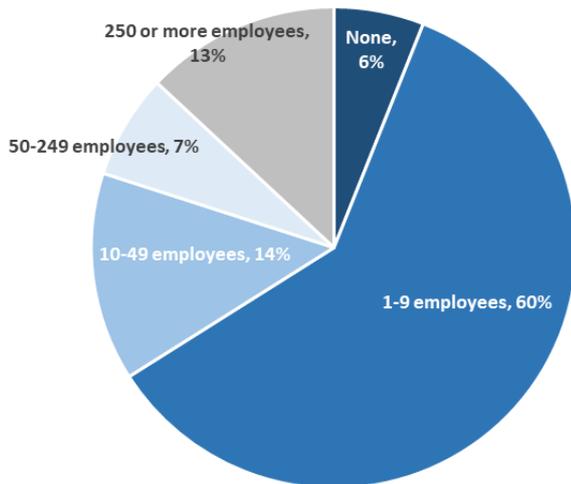


ICF. 2016. ADR Consumer CATI. Education level [Q26]. N=200

Profile of traders surveyed

In total, 176 traders who used the court system were surveyed as part of this study. Figure 8 shows that most of them (60 per cent) employ between one and nine employees.

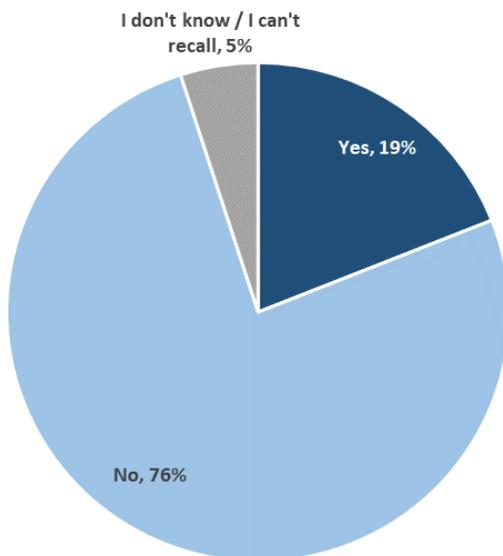
Figure 8 Trader's size based on employment



ICF. 2017. Court Trader CATI. How many staff are employed by your organisation (across all sites) in the UK? [Q19]. N=176

The large majority of traders (76 per cent) are not members of an ADR scheme as presented in Figure 9.

Figure 9 Traders members of an ADR scheme



ICF. 2017. Court Trader CATI. Are you a member of an ADR scheme? [Q20]. N=174

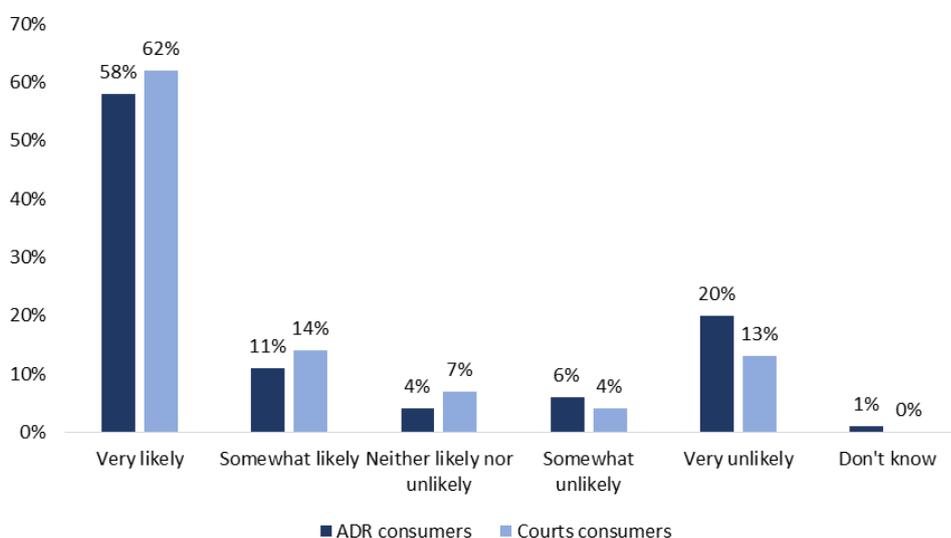
Consumers' and traders' experience with the dispute resolution process

This section presents evidence of consumers' and traders' experiences with the redress process. Several measures of the dispute resolution experience were gathered via the survey, including time taken, problems experienced, and the simplicity of the process.

Likelihood of using ADR and the courts again in future

The likelihood of consumers using ADR/courts in the future is used as a measure of overall satisfaction. Figure 10 shows that a vast majority of consumers who used ADR or courts say that they are very likely to use those processes again should they experience a similar customer dispute in future. Conversely, a fifth of the consumers who used ADR mentioned that it is very unlikely that they will use ADR again²². Thus, overall, consumer confidence appears relatively strong, but slightly stronger for consumers that have used the courts.

Figure 10 Likelihood of using ADR/courts in the future

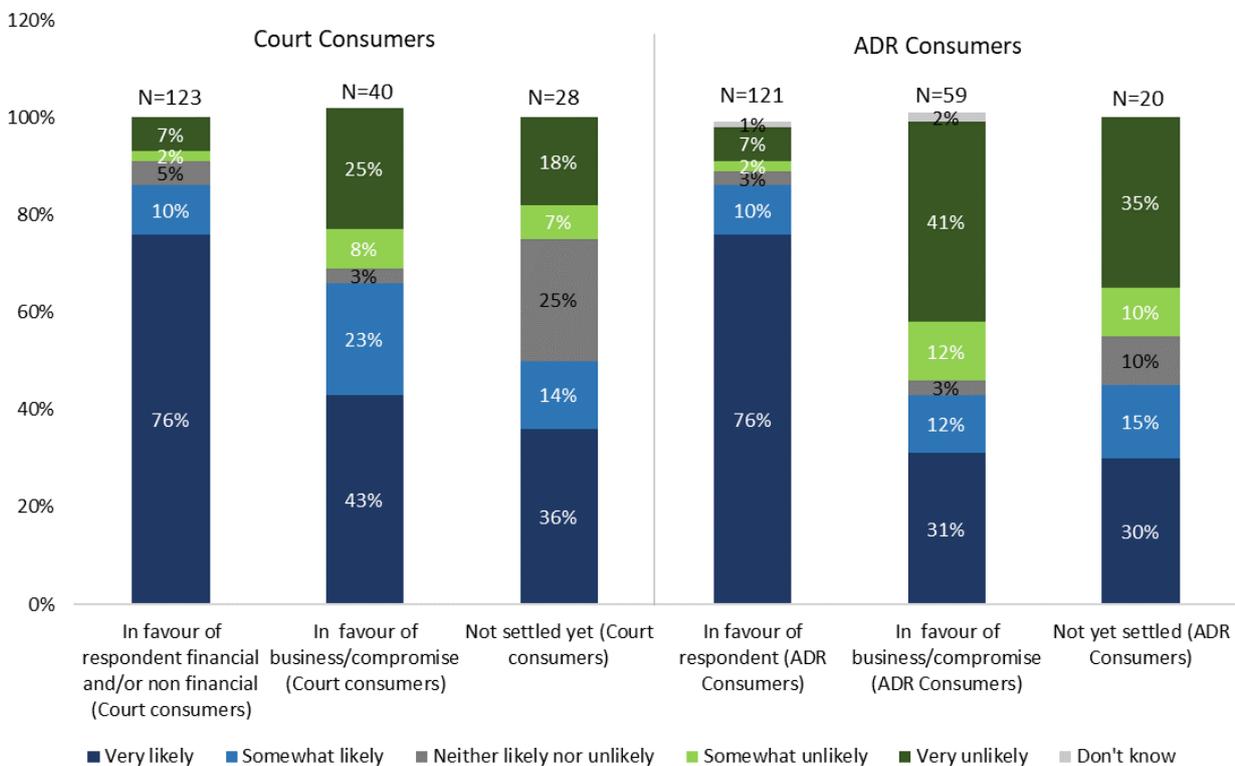


Source: ICF. 2016. ADR Consumer CATI. How likely would you be to use alternative dispute resolution again to settle a similar customer dispute? [Q22]. N=200; ICF. 2017. Court Consumer CATI. How likely would you be to use the courts again to settle a similar customer dispute? [Q22]. N=200.

²² ICF. 2016. ADR Consumer CATI. How likely would you be to use alternative dispute resolution again to settle a similar customer dispute? [Q22]. N=200.

Figure 11 further highlights that the likelihood of using ADR/courts is higher for consumers for which the case was settle in their favour.

Figure 11 Likelihood of using ADR/courts in the future, by outcome of the case (Case settled...)

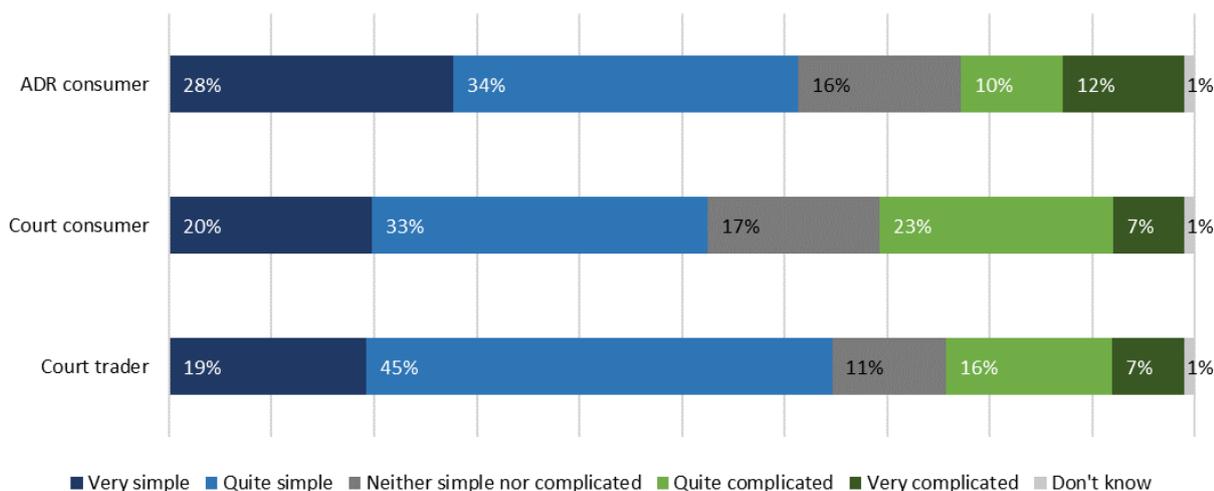


Source: ICF. 2016. ADR Consumer CATI. How likely would you be to use alternative dispute resolution again to settle a similar customer dispute? [Q22]. N=200; ICF. 2017. Court Consumer CATI. How likely would you be to use the courts again to settle a similar customer dispute? [Q22]. N=200.

Simplicity of the dispute resolution process

Consumers and traders were asked about their views of the simplicity of the ADR and courts processes. The results are displayed in Figure 12 below. Overall, more than half of the respondents in each group indicate that their respective process is simple.

Figure 12 Overall perception of simplicity of the process



Source: ICF. 2016. ADR Consumer CATI. How simple did you find the process? [Q20]. N=200; ICF. 2017. Court Consumer CATI. How simple did you find the process? [Q20]. N=200; and ICF. 2017. Court trader CATI. How simple did you find the process? [Q15]. N=176.

Follow-up interviews with consumers and traders who have used ADR corroborate the findings above. Two consumers interviewed found the overall process very simple and efficient, specifying that all seemed very clear and that the contact person at the ombudsman service was “very reassuring”. Nevertheless, one interviewee mentioned that despite the process being “fairly simple”, they were frustrated by the ADR provider portal’s “clunkiness”, the “waiting time” and “long communication periods”. The same interviewee added that the portal could be made more intuitive²³. In addition, four of five traders with ADR experience who were interviewed indicated that the ADR process is simple, and they were generally very satisfied with their ADR experience. One of the respondents mentioned that they had established a good working relationship with their ombudsman, with processes and procedures to help smooth and facilitate the overall complaint resolution²⁴. However, one trader indicated it was unsatisfied with its sector’s ADR scheme, arguing it was very bureaucratic and complex but did not describe the issue further. The trader also mentioned that, as a result, the process was too slow.

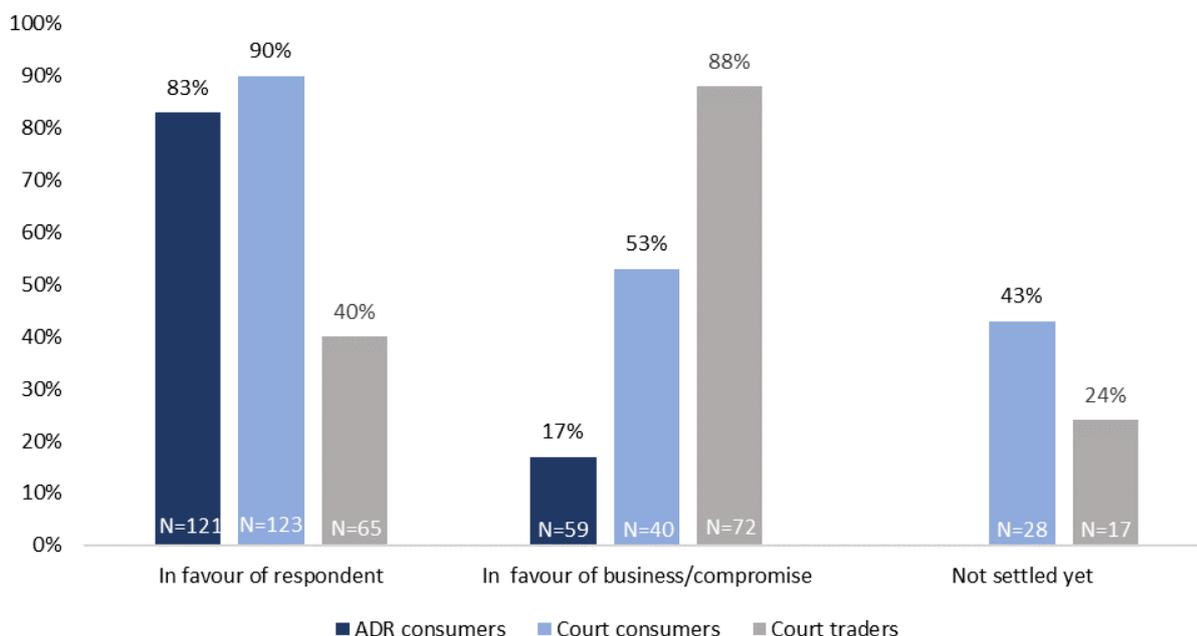
Perceived fairness of the dispute resolution process

Consumers and traders were also asked about the fairness of the process. A vast majority of the respondents see their respective process as fair (Figure 13). Consumers using the courts are the group most likely to find the process to be fair (75 per cent (n=149)). The outcome of the case also seems to influence the perception of fairness as it can be seen on Figure 13.

²³ ICF Interviews with ADR consumers

²⁴ ICF Interviews with ADR traders

Figure 13 Share of respondent who perceive the process as fair, by outcome of the case (Case settled...)



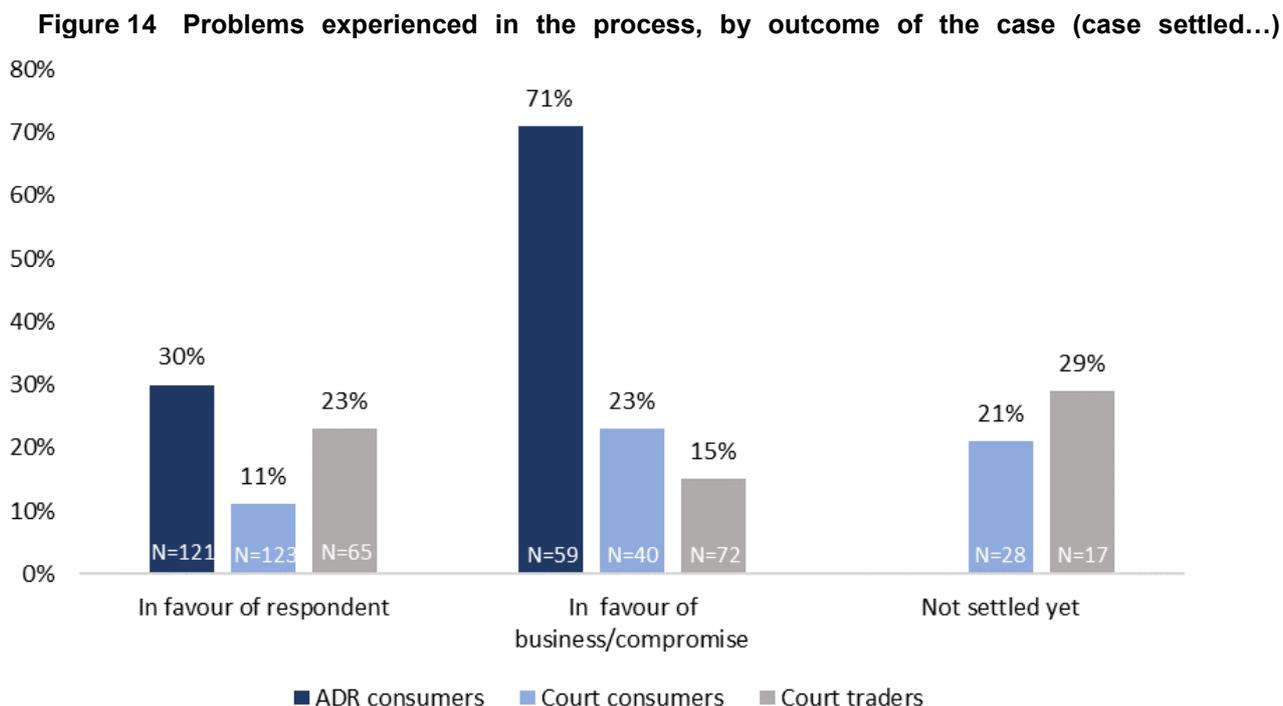
Source: ICF. 2016. ADR Consumer CATI. Q21. Did you find the process to be fair? [Q21]. N=180; ICF. 2017. Court Consumer CATI. Did you find the process to be fair? [Q21]. N=200; and ICF. 2017. Court Trader CATI. Did you find the process to be fair? [Q16]. N=176. The numbers in each bar is the total number of respondents answering “yes”.

During interviews with traders who have used ADR to resolve a consumer dispute, collaboration with the ADR was mentioned as positively influencing the consumer relationship and stopping clients who endlessly try to escalate a case. The traders interviewed also indicated the ADR was professional, quick, lead to fair outcomes and able to resolve deadlocks. One company indicated that both the ADR provider and the trader had mutually learned from each other as good practices were exchanged²⁵.

Problems experienced with the dispute resolution process

Most consumers and traders did not cite any problems in using the ADR or court processes, although a larger proportion of consumers who used ADR encountered a problem (46 per cent) than consumers or traders who used the courts (16 and 22 per cent respectively). Figure 14 displays the distribution of respondents who say they have experienced problems with the resolution process divided by the outcome of the cases.

²⁵ ICF interviews with ADR traders



Source: ICF. 2016. ADR Consumer CATI. Did you experience any problems in using alternative dispute resolution in the case of your customer complaint? [Q8]. N=200; ICF. 2017. Court Consumer CATI. Did you experience any problems in taking your customer complaint to court? [Q11]. N=200; and ICF. 2017. Court Trader CATI. Did you experience any problems with taking this customer complaint to court? [QNewQ1]. N=176. The numbers in each bar is the total number of respondents answering “yes”.

The types of problems encountered by consumers and traders are illustrated in Figure 15, Figure 16 and Figure 17 below. Relatively large shares of all respondents mentioned that the process took longer than anticipated and that there was a lack of communication and information on the process. For consumers who experienced a problem with ADR, the most commonly cited problems were having to follow up several times with the ADR provider and a perception that the process favoured the trader, this mainly in cases where the decision was taken in favour of the trader.

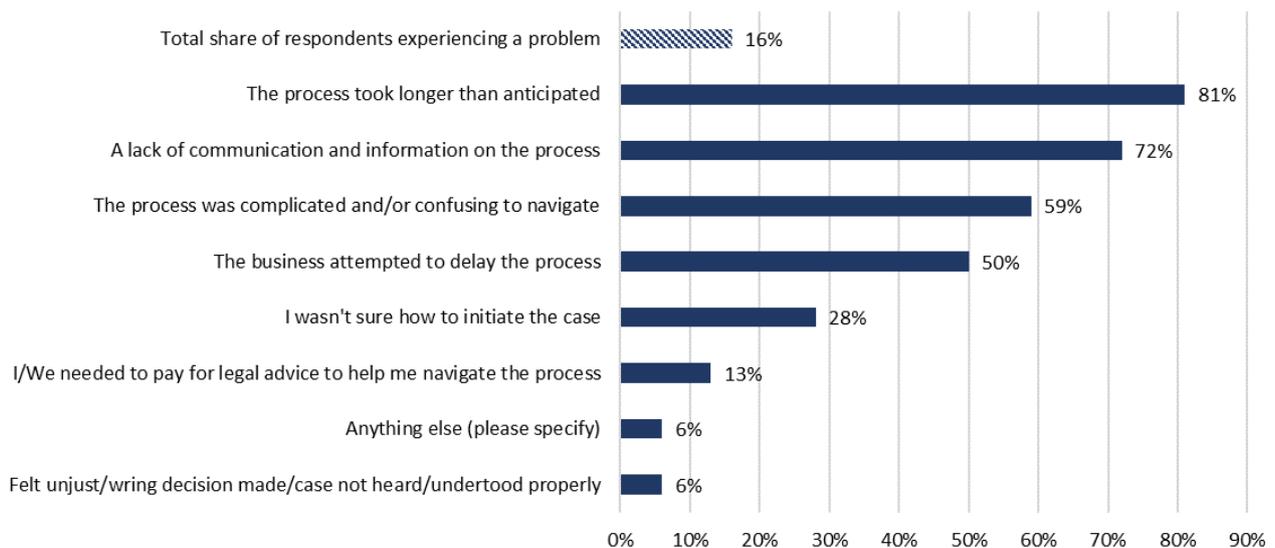
ADR processes tend to be slightly shorter than courts processes (see section on Duration of the courts and ADR process). Despite this, 31 per cent of consumers that used ADR said the process took longer than expected, compared to 13 per cent of consumers who used the courts.

Figure 15 Problems encountered when using the courts (traders that used the courts)



Source: ICF. 2017. Court Trader CATI. What type of problem did you experience when using the courts? Was it to do with any of the following? [NewQ2]. N=39. Multiple choice possible. The total share of respondents experiencing a problem is 22 per cent (39 out of 179).

Figure 16 Problems encountered when using the courts (consumers that used the courts)



Source: ICF. 2017. Court Consumer CATI. What type of problem did you experience when using the courts? Was it to do with any of the following? [Q11]. N=32. Multiple choice possible. The total share of respondents experiencing a problem is 16 per cent (32 out of 200).

Figure 17 Problems encountered when using ADR (consumers that used ADR)



Source: ICF. 2016. ADR Consumer CATI. What type of problem did you experience when using alternative dispute resolution? Was it to do with...? [Q8a]. N=92. Multiple choice possible. The total share of respondents experiencing a problem is 46 per cent (92 out of 200).

The findings from the interviews echoed the earlier evidence regarding the pace of the ADR process. The main problems in the process reported by the consumers with experience of using ADR include the waiting time (for more complex cases), the input required (i.e. the evidence to be provided) and disappointment with the decision where it is not in their favour²⁶. The process to contact the Ombudsman was, again, described as “a little bit slow” as well as a learning process and the time to prepare submission was “a bit demanding”, with one consumer saying that it took them “a couple of hours” to prepare a submission but that it might be “harder for someone else”²⁷.

Consumers who experienced problems with the courts or ADR were less likely to say that they would use them again in future to resolve a similar dispute. Of those consumers who reported a problem, 50 per cent of those who used the courts and 48 per cent of those who used ADR said they were likely to use them again in future. The likelihood of using the ADR/courts again for consumers who have not experienced a problem is significantly higher, with 88 per cent of ADR consumers and 81 per cent of courts consumers likely to use the respective redress mechanism again in the future.

Cost of taking disputes to courts and ADR

Consumers face both direct and indirect costs when they use ADR and the courts. The type of indirect costs consumers might face include a loss of earnings from time off work while direct costs may include expert advice or assistance, travel costs, telephone calls,

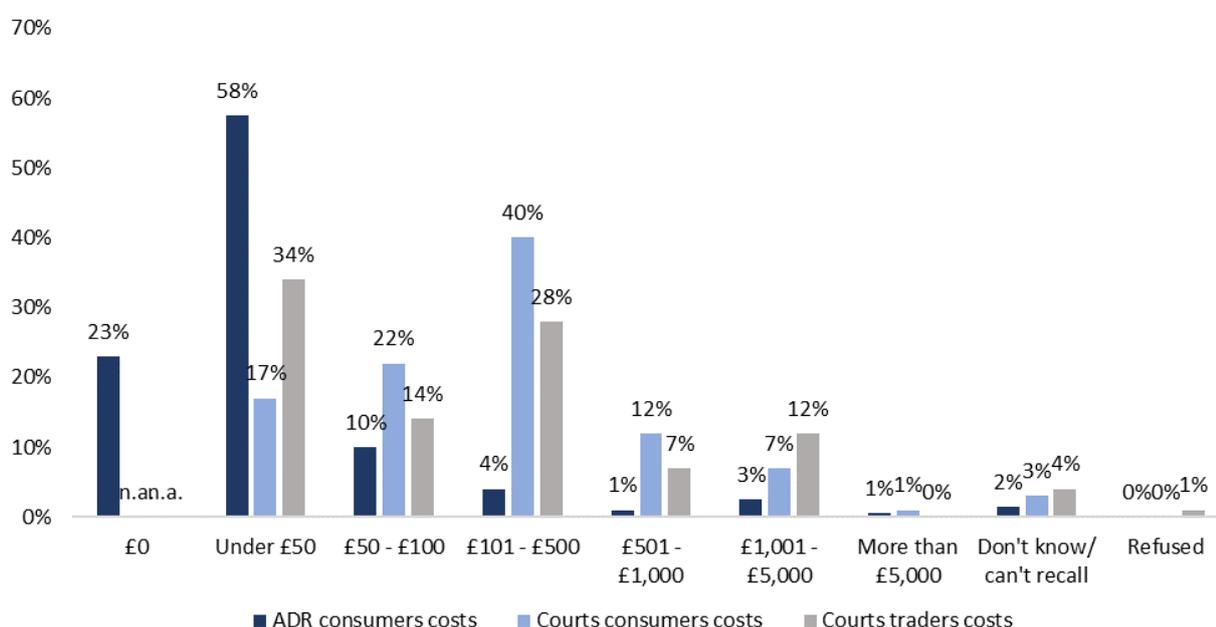
²⁶ ICF interviews with ADR providers

²⁷ ICF interviews with ADR consumers

postage or stationery²⁸. Direct costs are likely to amount to under £50 for ADR consumers and between £101-£500 for courts consumers²⁹.

In most instances, consumers pay less than £50 to access ADR, with 23 per cent (n=46) not incurring any costs at all (see Figure 18). Regarding the traders that used ADR, their direct costs vary significantly. The values mentioned in interviews conducted for this study range from £50 to £1,500³⁰. Some traders pay the cost of ADR through their annual membership others are charged on a case by case basis. In general, the costs of ADR are higher for traders than for consumers³¹.

Figure 18 Direct costs incurred by consumers and traders



Source: ICF. 2016. ADR Consumer CATI. Give your best estimate of the total costs you had to meet as a result of the alternative dispute resolution process, [Q14] N=154; and ICF. 2017. Court Trader CATI. Please give me your best estimate of the total costs you had to meet as a result of the [alternative dispute resolution / court] process? [Q5]. N=176; and ICF. 2017. Court Consumer CATI. Please give your best estimate of the total costs you had to meet as a result of the alternative dispute resolution/ court process? [Q14]. N=200.

²⁸ ICF. 2016. ADR Consumer CATI. Give your best estimate of the total costs you had to meet as a result of the alternative dispute resolution process. [Q14]

²⁹ ICF. 2016. ADR Consumer CATI. Give your best estimate of the total costs you had to meet as a result of the alternative dispute resolution process. Please exclude the cost of your time unless you had to take time off work to deal with the problem [Q14], and ICF. 2017. Court Consumer CATI. There can be financial costs to you when pursuing a complaint which can include court fees, legal advice, loss of earnings from time taken off work to resolve the issue, travel costs, telephone calls, postage or stationary. Thinking about the costs we've just discussed, please give me your best estimate of the total costs you had to meet as a result of the ADR/courts process. [Q14]

³⁰ Interviews with traders that used ADR

³¹ BEIS. 2015. "ALTERNATIVE DISPUTE RESOLUTION REGULATIONS 2015"

Note: the Courts CATI survey did not allow to extract information on courts consumers and traders who did not incur any costs at all.

This study indicates that using the courts is more expensive than using ADR. This could be partly explained by the fact that ADR services, in the majority of cases, do not charge any fees to consumers³². Evidence suggests the costs associated with court proceedings are, in general, higher than ADR but can vary substantially (depending on the amount claimed and the location)³³. The costs of the small claims track are relatively small (as it does not involve a solicitor), but fees may vary considerably depending primarily on the value of the dispute, whether the claim is dealt with in England, Wales, Scotland or Northern Ireland and depending on how far the claim goes through the courts' process. To pursue claims outside the small claims track, it involves a more complicated process, and this can be costlier for consumers and involve a superior length of time. A solicitor may be required to prepare a case in which case legal fees will be incurred³⁴.

Personal time required to use the courts/ADR

Among consumers using the court system, most reported spending either 5-10 hours or more than 40 hours³⁵. Most consumers using ADR reported spending less than 11 hours, with one third of consumers reporting spending between 11 and 40 hours³⁶. Figure 19 below illustrates the personal time spent for courts and ADR consumers.

³² ICF online survey of ADR providers. Do you charge fees to consumers for the ADR services you provide? [Q19]

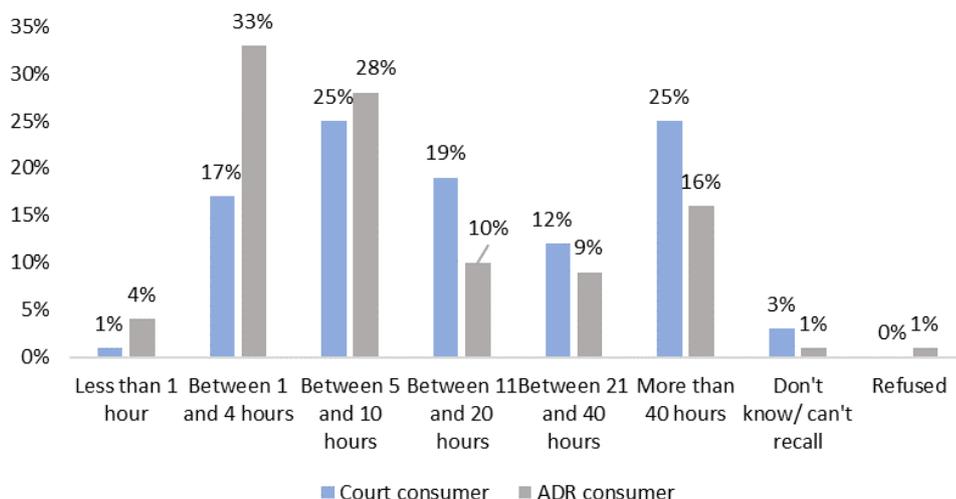
³³ Which?. 'When should I use the small claims court?' Available at: <http://www.which.co.uk/consumer-rights/problem/when-should-i-use-the-small-claims-court>

³⁴ Which?. 'When should I use the small claims court?' Available at: <http://www.which.co.uk/consumer-rights/problem/when-should-i-use-the-small-claims-court>

³⁵ ICF. 2017. Court Consumer CATI. Approximately how much of your personal time, to the nearest hour, have you spent dealing with the court process? This should include time spent preparing what to say or travelling to and from meetings or appearances? [Q15]

³⁶ ICF. 2017. ADR Consumer CATI. Approximately how much of your personal time have you spent dealing with the alternative dispute resolution process? [Q15]

Figure 19 Personal time required to use the courts/ADR



Source: ICF. 2017. Court Consumer CATI. Approximately how much of your personal time, to the nearest hour, have you spent dealing with the court process? This should include time spent preparing what to say or travelling to and from meetings or appearances? [Q15]. N=200; and ICF. 2017. ADR Consumer CATI. Approximately how much of your personal time have you spent dealing with the alternative dispute resolution process? [Q15]. N=200

Duration of the courts and ADR process

The length of the ADR process from the beginning to the end varies significantly according to the survey of consumers who have used ADR. Cases, which have a more complicated process, a higher cost and value of compensation last, in general, longer. The shortest duration was between one and four weeks (six per cent of the respondents, n=11), whereas the longest was more than nine months (13 per cent of respondents, n=23)³⁷. However, most people spent between three and nine months in the ADR process (a length of time superior to the target set up for all ADR services to resolve cases, namely 90 days³⁸).

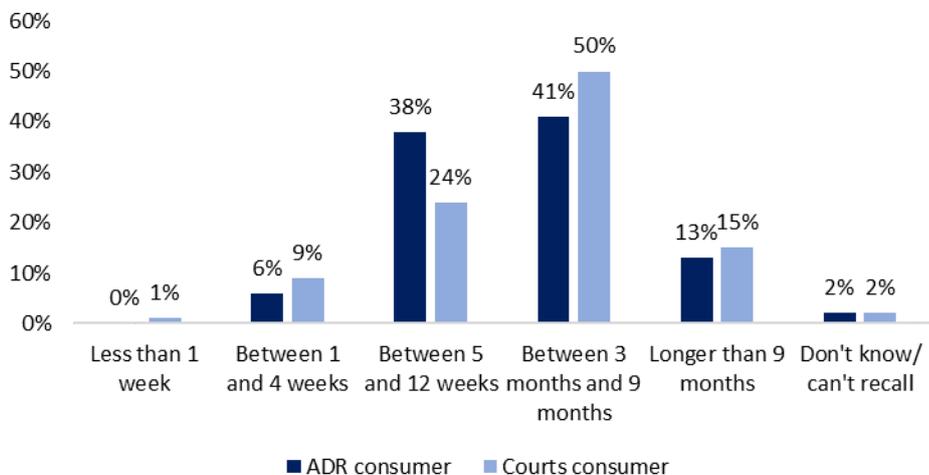
Similarly, with regard to the length of the process for consumers using courts, this also varies significantly. The minimum court case duration was less than four weeks (10 per cent, n=15), whereas the maximum was more than nine months (15 per cent of respondents, n=24)³⁹. As with ADR, most consumers spent between three and nine months in the process.

³⁷ ICF. 2016. ADR Consumer CATI. How long did the process take from the point at which you took the problem to alternative dispute resolution to the point at which the problem was resolved? [Q18]

³⁸ ECC-net. N.d. Available at: <http://europakonsument.at/en/page/alternative-dispute-resolution-2016>

³⁹ ICF. 2017. Court Consumer CATI. How long did the process take from the point at which you took the problem to court to the point at which the problem was resolved? Please answer to the nearest number of weeks. [Q18]

Figure 20 Duration of the ADR and court process



Source: ICF. 2016. ADR Consumer CATI. How long did the process take from the point at which you took the problem to alternative dispute resolution to the point at which the problem was resolved? [Q18]; and ICF. 2017, N=180. Court Consumer CATI. How long did the process take from the point at which you took the problem to court to the point at which the problem was resolved? Please answer to the nearest number of weeks, [Q18], N=163

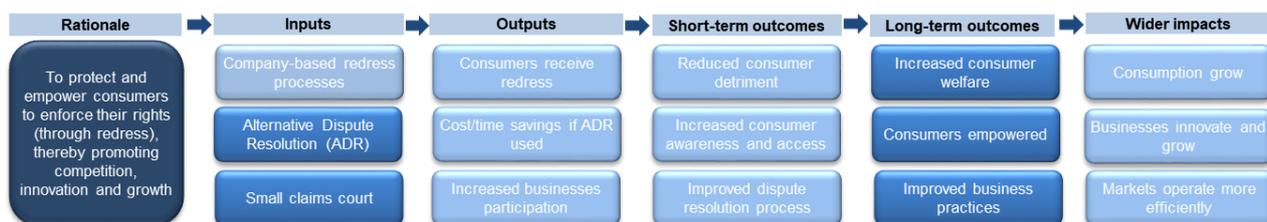
It can be inferred from the above information that ADR is typically quicker than the courts. Forty-four per cent of cases lasted less than three months, compared to 34 per cent for the courts. Studies have reached similar conclusions on this topic at EU level, with many finding a shorter duration of ADR schemes as opposed to courts' processes to varying degrees (between one month and one year less time for ADR versus court). For instance, one study found that the average duration of an ADR case is estimated to be between 31 and 90 days, while the average court process lasts 371 days⁴⁰.

⁴⁰ Civic Consulting. 2009. 'Study on the use of Alternative Dispute Resolution in the EU' as quoted in OFT. 2010. 'Mapping UK consumer redress: A summary guide to dispute resolution systems'. See page 32.

Impact of ADR and the courts on consumers and traders

This section describes the expected and actual impacts (i.e. long-term outcomes, see Figure 21) of ADR and the courts, more specifically it looks at the impacts on consumer welfare and consumer empowerment as well as the observed impacts on trader practices. In terms of attributing these impacts to the courts and/or ADR, this chapter seek to: (i) compare outcomes between ADR/court resolution and no/company resolution; and (ii) compare outcomes between court resolution and ADR resolution.

Figure 21 Overarching conceptual framework: high-level logic model



Source: ICF

Consumer redress

This section focuses on consumer redress and more particularly on the financial and other outcomes resulting from the use of ADR and courts.

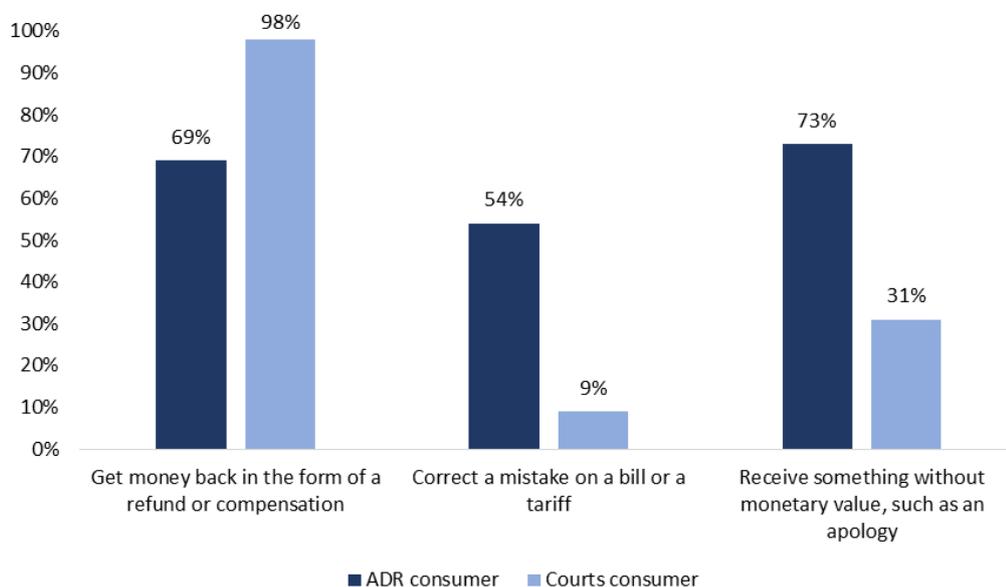
A considerable number of cases benefit from a financial settlement, while others receive apologies or are offered other gestures.

The outcomes sought by consumers using ADR/courts

This section describes the outcomes sought by consumers who used courts or ADR to resolve their problem. The nature of the different outcomes varies between the consumers with experience from ADR and those with experience from the courts.

The vast majority (98 per cent) of consumers using the courts hoped to get money back in the form of a refund or compensation (see Figure 22). However, consumers that take a dispute to ADR appear to be driven almost equally by non-monetary motives.

Figure 22 Hopes with taking the problem to ADR/courts



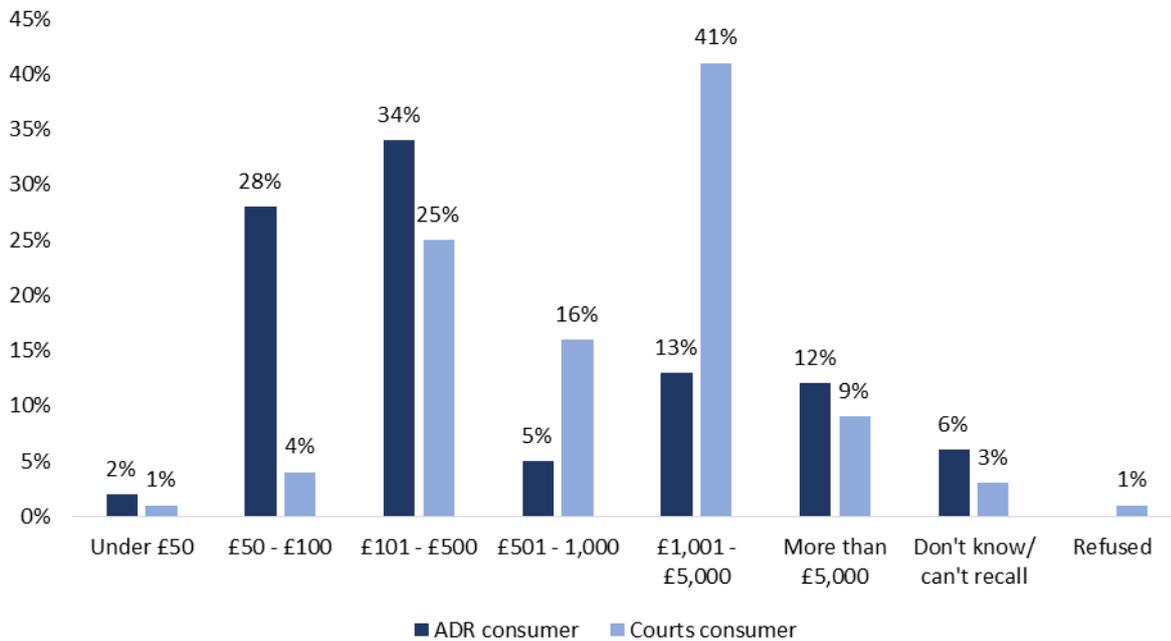
Source: ICF. 2016. ADR Consumer CATI. In taking your problem to Court, were you hoping to... [Q3a]. N=200; ICF. 2017. Courts Consumer CATI. In taking your problem to Court, were you hoping to... [Q3a]. N=200; and ICF. 2017.

Amounts sought

Consumers who used ADR as well as consumers who used courts were prompted to specify the value of the refund or compensation that they sought (i.e. amount hoped for). Figure 23 presents a comparison across the consumers.

It is clear from Figure 23 that consumers who used ADR and sought a monetary refund or compensation generally hoped for a lower amount of refund or compensation compared to consumers and traders who used the courts. A majority of consumers using ADR hoped for compensation of between £50 and £500 while consumers and traders with experience from the courts both hoped for compensation of between £1,001 and £5,000.

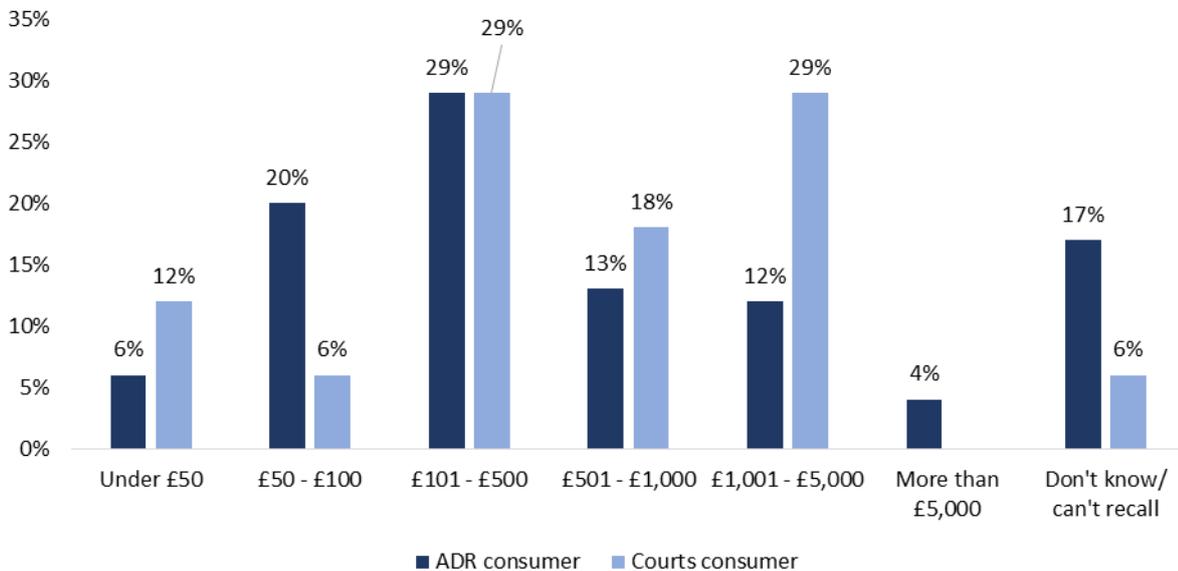
Figure 23 Value of the refund or compensation consumers hoped for



Source: ICF. 2016. ADR Consumer CATI. What was the value of the refund or compensation you hoped to get? [Q4]. N=137; ICF. 2017. Courts Consumer CATI. What was the value of the refund or compensation? [Q4]. N=200; ICF. 2017.

Consumers that wanted to correct a mistake on a bill/tariff were also asked about the monetary value of the error in their bill or tariff (Figure 24). Please note that the base is very small for consumers who used the courts (n=17). Of the consumers who used ADR, 29 per cent (n=31) mention that the size of the error in their bill or tariff is between £101 and £500 and 20 per cent (n=21) indicate that the size of the error in their bill is between £50 and £100. Consumers who went to courts show a larger disparity across the values, with 29 per cent (n=5) mentioning the size of the error in their bill or tariff to be between £101 and 500 while the same share (29 per cent) indicated the error to be between £1,001 and £5,000.

Figure 24 Monetary value of the error in your bill or tariff

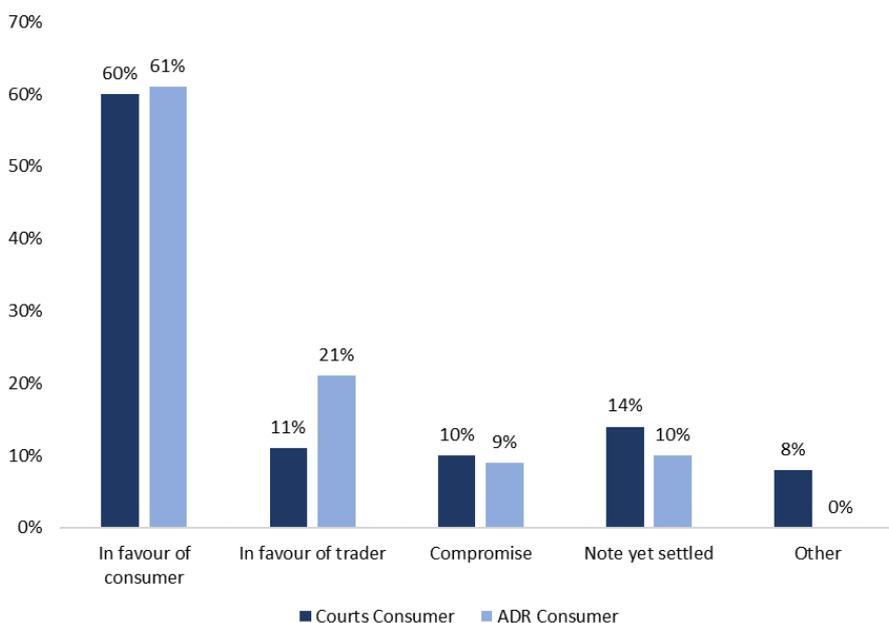


Source: ICF. 2016. ADR Consumer CATI. In terms of its monetary value, what was the size of the error in your bill or tariff? [Q4a]. N=107; ICF. 2017. Courts Consumer CATI. In terms of its monetary value, what was the size of the error in your bill or tariff? [Q4a]. N=17; and ICF. 2017.

Outcome of ADR/court cases

Figure 25 shows a summary of the types of dispute settlements for consumers that have used ADR and Courts. Among both types of redress, around 60 per cent of cases were settled in favour of consumers.

Figure 25 Types of dispute settlements for consumers using ADR and Courts

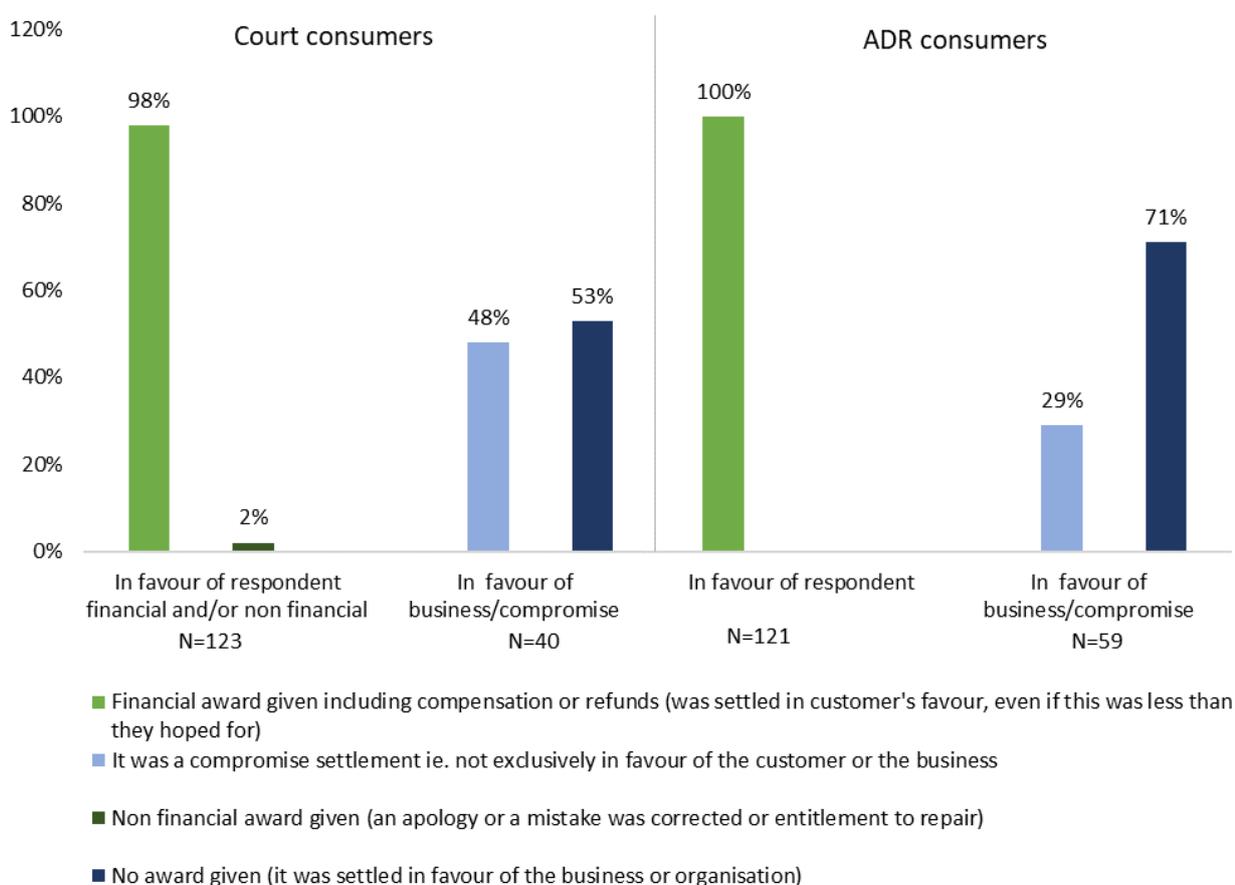


Source: ICF. 2016. ADR Consumer CATI. Overall, was the dispute settled in your favour or in the favour of the trader or organisation? [Q16]. N=200; ICF. 2017. Courts Consumer CATI. Overall,

was the dispute settled in your favour or in the favour of the trader or organisation? [Q16]. N=200. The grand total base for the percentages here is 400.

As shown in Figure 26, the majority of respondents whose cases were solved in their favour received a financial award. However, for consumers that used ADR and that had a settlement in favour of the business/compromise, a majority (71 per cent) received no financial award as compared to 53 per cent of the court consumers.

Figure 26 Type of dispute settlements and the type of awards given



Source: ICF. 2016. ADR Consumer CATI. Overall, was the dispute settled in your favour or in the favour of the trader or organisation? [Q16]. N=200; ICF. 2017. Court Consumer CATI. Overall, was the dispute settled in your favour or in the favour of the trader or organisation? [Q16]. N=200.

Financial awards made to consumers

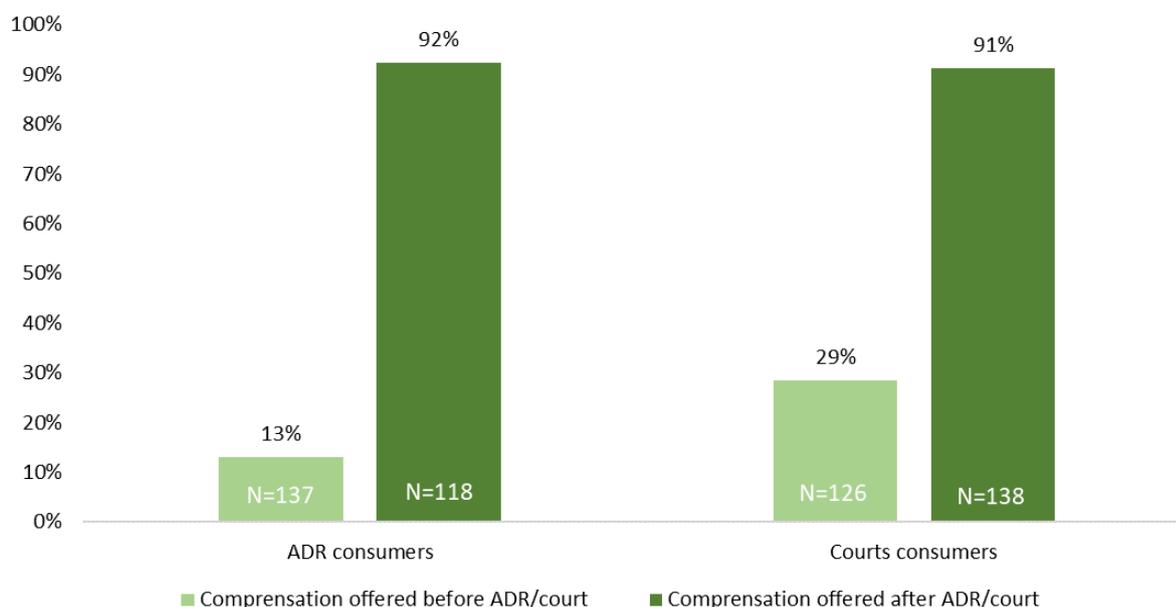
The amounts awarded as a result of the ADR/court process can be compared against the amounts sought by consumers before taking the dispute to ADR/courts. Overall, there was a discrepancy between what was anticipated and what was received for both types of consumers at all value ranges. Generally, more respondents received a lower amount (up to £100) than anticipated.

The majority of stakeholders appear not to have been awarded any compensation before taking the case to ADR/courts. Among the consumers who used ADR, 70 per cent (n=124)

mentioned that no compensation was offered by the trader or organisation that the consumer was in dispute with before they began the ADR process. Among those that did receive compensation before the ADR process, the most common amount was less than £50, as mentioned by 11 per cent (n=20) of consumers⁴¹. Similarly, 85 per cent (n=166) of consumers who used the courts and were seeking monetary resolution were not offered any financial compensation by the trader before they began the court process. Among those that did receive a monetary resolution (n=30), the largest number of respondents, 8 per cent (n=15), indicated receiving compensation of £101-£500⁴².

The share of respondents that received compensation after the ADR/court process is depicted in Figure 27 below. Figure 27 only shows cases settled either as a compromise or in favour of the respondent. The share of respondents that received compensation after ADR/court process was considerably higher than the share of respondents that received compensation before the ADR/court process for both consumers that used ADR and the courts. This confirms that going through ADR or the courts increases the probability of the consumer receiving compensation.

Figure 27 Compensation received before compared to after the ADR/court process, for cases settled in favour of the consumer or compromise cases



Source: ICF. 2016. ADR Consumer CATI. Thinking now to BEFORE you began the alternative dispute resolution process, how much financial compensation, if any, were you offered by the

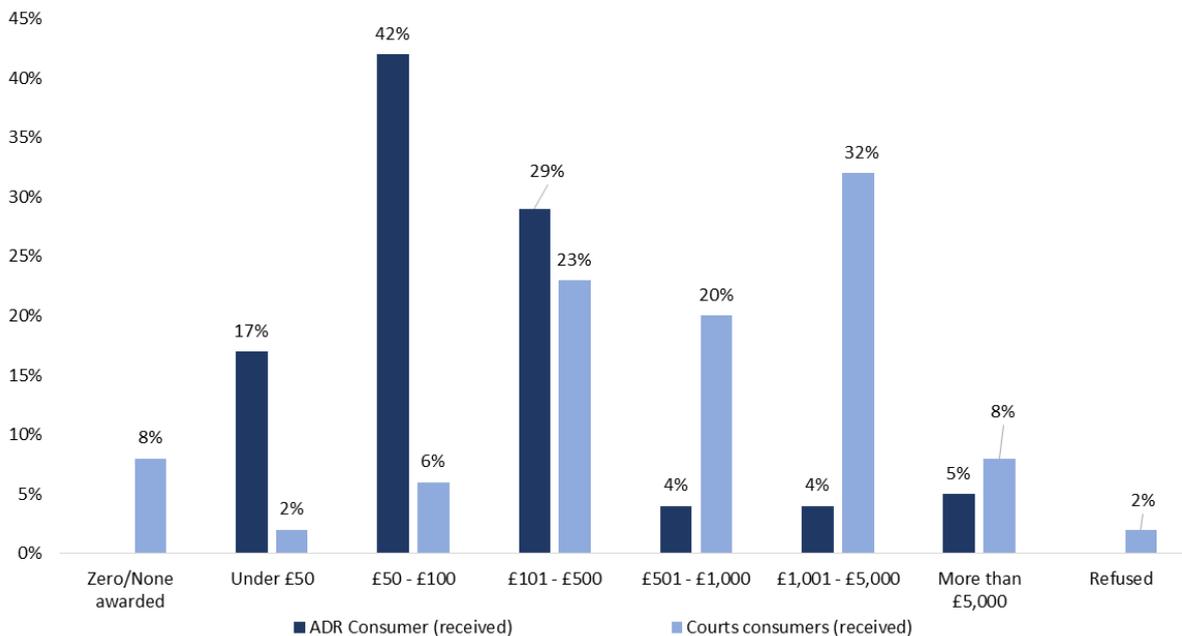
⁴¹ ICF. 2016. ADR Consumer CATI. Thinking now to BEFORE you began the alternative dispute resolution process, how much financial compensation, if any, were you offered by the trader or organisation that you were in dispute with? [Q5]. N=177.

⁴² ICF. 2017. Court Consumer CATI. Thinking now to BEFORE you began the alternative dispute resolution process, how much financial compensation, if any, were you offered by the trader or organisation that you were in dispute with? [Q5]. N=196.

trader or organisation that you were in dispute with? [Q5]. N=177 & What was the value of compensation awarded to you (if any)? [Q17a]. N=200; ICF. 2017. Court Consumer CATI. Thinking now to BEFORE you began the alternative dispute resolution process, how much financial compensation, if any, were you offered by the trader or organisation that you were in dispute with? [Q5]. N=196 & What was the value of compensation awarded to you (if any)? [Q17a]. N=200. The numbers in the bars are the bases for the percentages shown.

The range of compensation amounts received is depicted in Figure 28 below. The consumers that wanted a refund/compensation were asked about the value of the refund or compensation received. Once again, it appears that consumers with experience of ADR received lower amounts of compensation than consumers who went to courts. The majority of the consumers who used ADR were awarded sums lower than £500 (88 per cent, n=110), compared to consumers that used the courts who generally received compensation amounting to £101-£500 (but reaching up to £5,000). Moreover, as with the anticipated amounts, consumers who used the courts seem to follow a similar pattern when it comes to the financial refunds awarded.

Figure 28 Value of compensation/refunds awarded after the ADR/court process

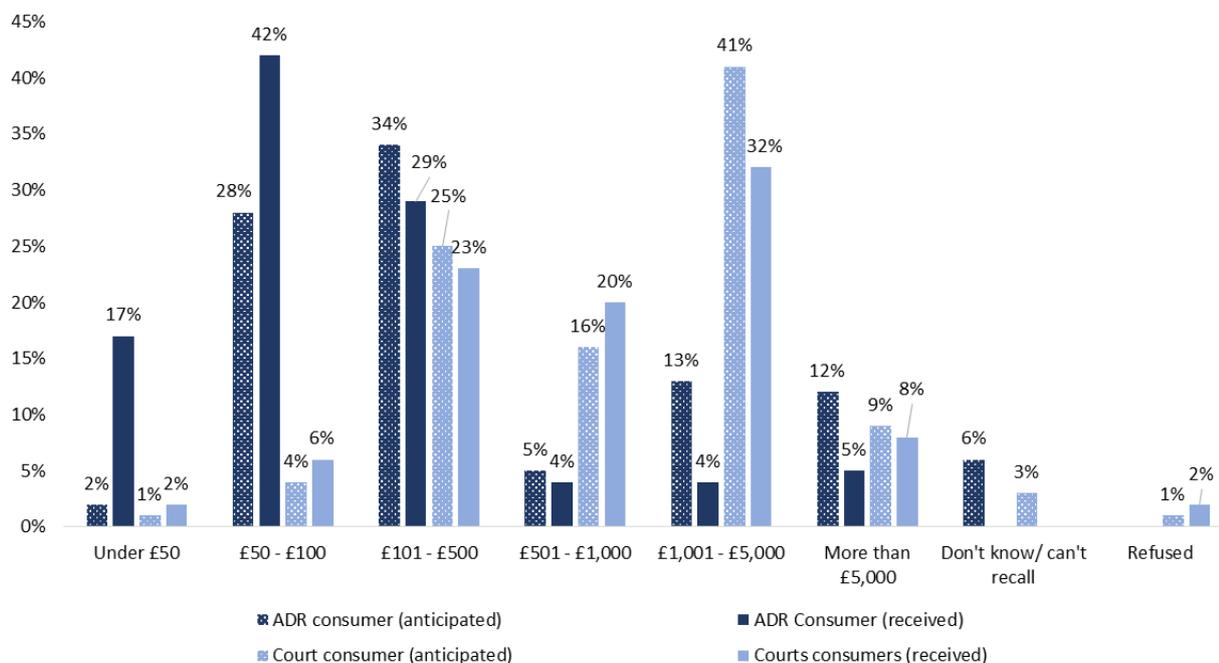


Source: ICF. 2016. ADR Consumer CATI. What was the value of compensation awarded to you (if any)? [Q17a]. N=126; ICF. 2017. Courts Consumer CATI. What was the value of compensation awarded to you (if any)? [Q17a]. N=120.

The amounts received are compared against the amounts sought for the two consumer groups in Figure 29 below. Overall, there is a discrepancy between the received and anticipated amounts across all stakeholders and value ranges. The proportion of consumers receiving up to £100 is higher than anticipated for both types of redress. For ADR, the compensation exceeds the expectations for values below £100 as a higher

percentage of consumers who used ADR received an award of up to £100, while fewer received a higher amount than what was anticipated. For consumers who used the courts, the value received was higher than anticipated for the higher values, ranging from £501 to £1,000 but also for the range £50-100.

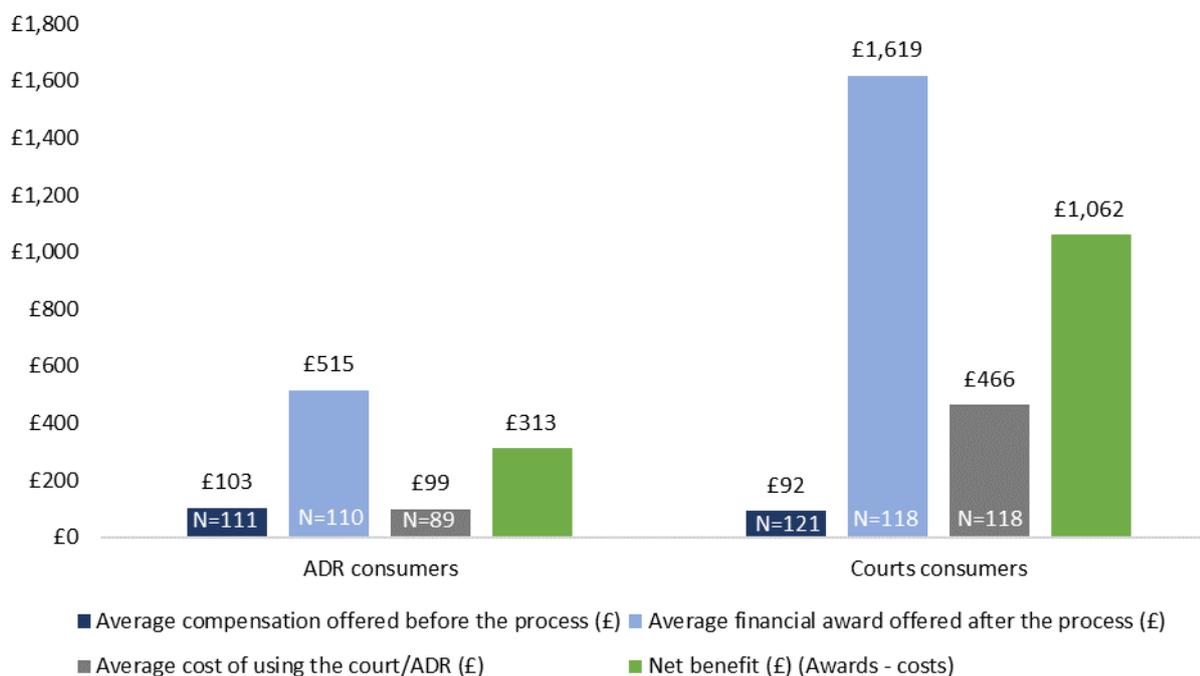
Figure 29 Value of compensation/refunds anticipated and awarded after the ADR/court process



Source: ICF. 2016. ADR Consumer CATI. What was the value of compensation awarded to you (if any)? [Q17a]. N=126; ICF. 2017. Courts Consumers CATI. What was the value of compensation awarded to you (if any)? [Q17a]. N=120; ICF. 2017. Courts Trader CATI. What was the value of compensation awarded to the customer (if any)? [Q12]. N=65. And, ICF. 2016. ADR Consumer CATI. What was the value of the refund or compensation you hoped to get? [Q4]. N=137; ICF. 2017. Court Consumer CATI. What was the value of the refund or compensation? [Q4]. N=200.

In order to establish the effect on consumer welfare, the received values before and after ADR/courts are compared with the incurred costs described in the section of cost and duration above. A graphical comparison is displayed in Figure 30 below, where the numbers are only for cases that were resolved in the consumer’s favour. Consumers with experience from ADR incurred costs of on average £99 and received awards of in total of £619 (£103 before the process and £515 after the process). Consumers with experience from the Courts face higher average costs related to the dispute, mounting to £466. Despite being offered less compensation before the process than consumers using ADR, consumers using the Courts have substantially higher average financial award after the dispute.

Figure 30 Comparison of the costs incurred before and the awards received following ADR/court dispute, for cases that were resolved in the consumer's favour⁴³



Source: All total numbers are for cases settled in favour of respondent. ICF. 2016. ADR Consumer CATI. Thinking now to BEFORE you began the alternative dispute resolution process, how much financial compensation, if any, were you offered by the business or organisation that you were in dispute with? Base = All who were seeking a monetary resolution [Q5]. N=111; ICF. 2017. Court Consumer CATI. Q5. Thinking now to BEFORE you began the alternative dispute resolution process, how much financial compensation, if any, were you offered by the business or organisation that you were in dispute with? [Q5]. N=121; ICF. 2016. ADR Consumer CATI. Give your best estimate of the total costs you had to meet as a result of the alternative dispute resolution process, [Q14] N=89; ICF. 2017. Court Consumer CATI. Please give your best estimate of the total costs you had to meet as a result of the alternative dispute resolution/ court process? [Q14]. N=123; ICF. 2016. ADR Consumer CATI. What was the value of compensation awarded to you (if any)? [Q17a]. N=110; and ICF. 2017. Courts Consumer CATI. What was the value of compensation awarded to you (if any)? [Q17a]. N=120.

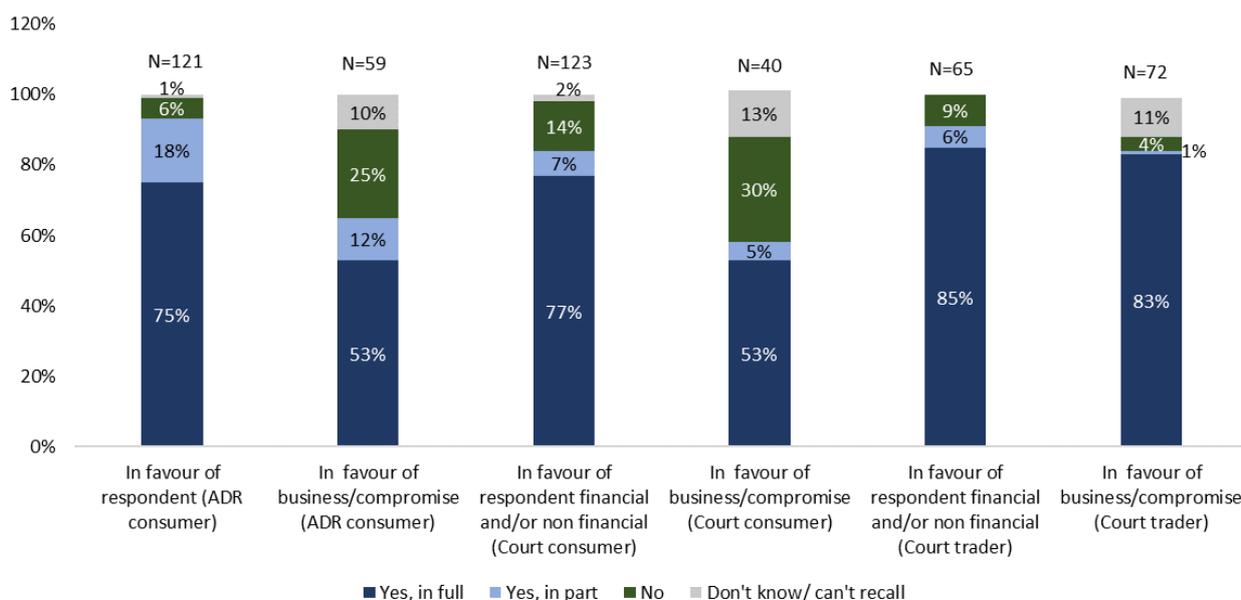
Implementation of ADR/court decisions

In most cases the decisions were honoured by traders, either in full or in part. Traders who used the courts reported that the decision was implemented in 88 per cent of cases

⁴³ The calculations are based on the mid-point values of the ranges provided. For ADR and Courts consumers the ranges are "Under £50" (mid-value used £25); £50-£100 (mid-value £75); £101-£500 (mid-value £300.5); £501-£1,000 (mid-value £750.5); £1,001-£5,000 (mid-value £3,000.5); and "More than £5,000" (mid-value £5,000).

(n=120)⁴⁴. The same holds true in the case of consumers using the courts where the majority (77 per cent, n=126) reported that the actions requested by the courts were implemented in full or in part. Eighty-four per cent of consumers who used ADR said that the decision was either fully or partially implemented⁴⁵. Figure 31 shows the implementation rate by outcome and by stakeholder type.

Figure 31 Honoured cases (in full or in part) by stakeholder type and the outcome of the case



Source: ICF. 2016. ADR Consumer CATI. Has the decision been honoured? [Q16a]. N=180; Courts Consumer CATI. Has the decision been honoured? i.e. have you or the business taken the actions requested by the courts? [Q16a]. N=163; and ICF. 2017. Court Trader CATI. Has the decision been honoured? i.e. have you or the customer taken the actions requested by the court? [Q10a]. N=137.

In our survey of ADR providers, three ADRs stated that the decisions are always respected, four ADRs considered that this is often or very often the case, while another stated that the decision is rarely respected⁴⁶.

Likely outcome without going to ADR/courts

Consumers were asked whether they think their problem would have been resolved without the ADR/court process. As shown in Figure 32, among ADR consumers, 60 per cent (n=83) believe that their problem would “definitely not” have been resolved without the ADR process and 20 per cent (n=28) believe it would “probably not” have been resolved without ADR. A similar picture emerges among consumers who used the courts, with 82 per cent (n=134) submitting that their problem would “definitely not” have been

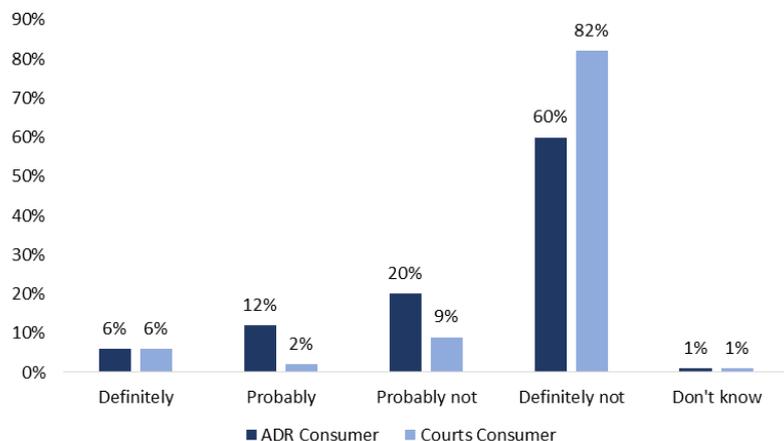
⁴⁴ ICF. 2017. Court Trader CATI. Has the decision been honoured? i.e. have you or the customer taken the actions requested by the court?, [Q10a]

⁴⁵ ICF. 2016. ADR Consumer CATI. Has the decision been honoured?. [Q16a]

⁴⁶ ICF online survey of ADR providers. To what extent do traders and consumers comply with the agreed settlement?, [Q23]

resolved without the court process and 9 per cent (n=15) suggesting it would “probably not” have been resolved without the court.

Figure 32 Would the problem have been solved without ADR/Courts?



Source: ICF. 2016. ADR Consumer CATI. Do you think your problem would have been resolved without the alternative dispute resolution process? [Q19]. N=138; ICF. 2017. Court Consumer CATI. Do you think your problem would have been resolved without the court process? [Q19]. N=163.

Impact of ADR/court cases on traders’ practices

This section identifies whether traders’ practices have changed as a result of the ADR/court process. It also elaborates upon whether traders become more responsive to customer complaints.

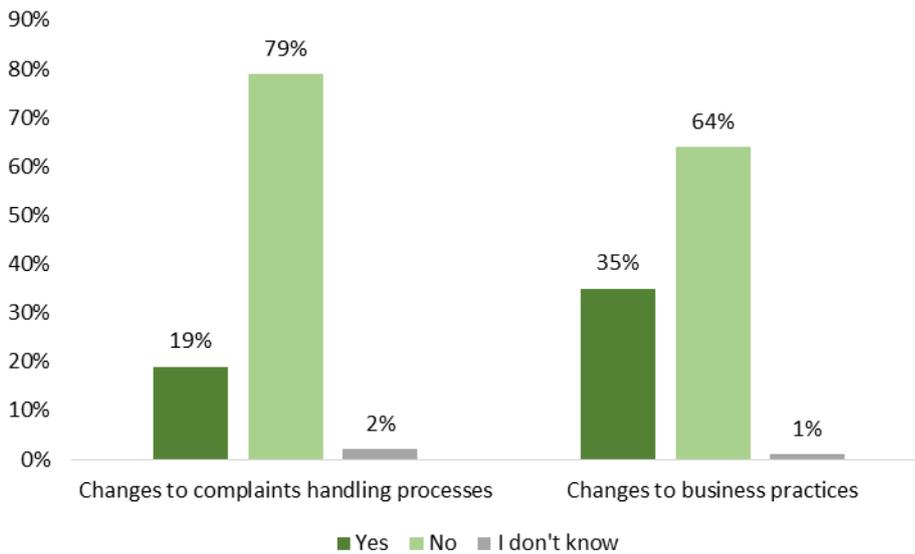
Results from the CATI survey suggest that traders generally do not change their complaints-handling processes nor their business practices after their experience with the courts. Amongst those that do, however, they are more likely to change their business practices rather than their complaints-handling processes. Moreover, the courts and ADR processes appear to affect trader practices differently – while the court process tends to make traders more cautious and clear regarding their offered goods and/or services and the terms and conditions of purchase, the ADR process suggests that traders adopt a faster and more customer oriented approach.

Impact on complaint handling processes

Traders who have used courts do not appear to have become more responsive to customer complaints following their experience with the courts, according to the CATI survey. Most of the traders (79 per cent; n=139) with experience from the courts indicated no changes to their complaints-handling processes (Figure 33). Of those who mentioned that changes occurred, very few indicated that they now offer greater guidance to customers on dealing with complaints. Instead, changes revolve around minimising

misunderstandings (i.e. the trader is more careful with wording on quotes/changed terms and conditions/making customers aware) and, as a result, the trader is now more confident in negotiating with the consumer⁴⁷.

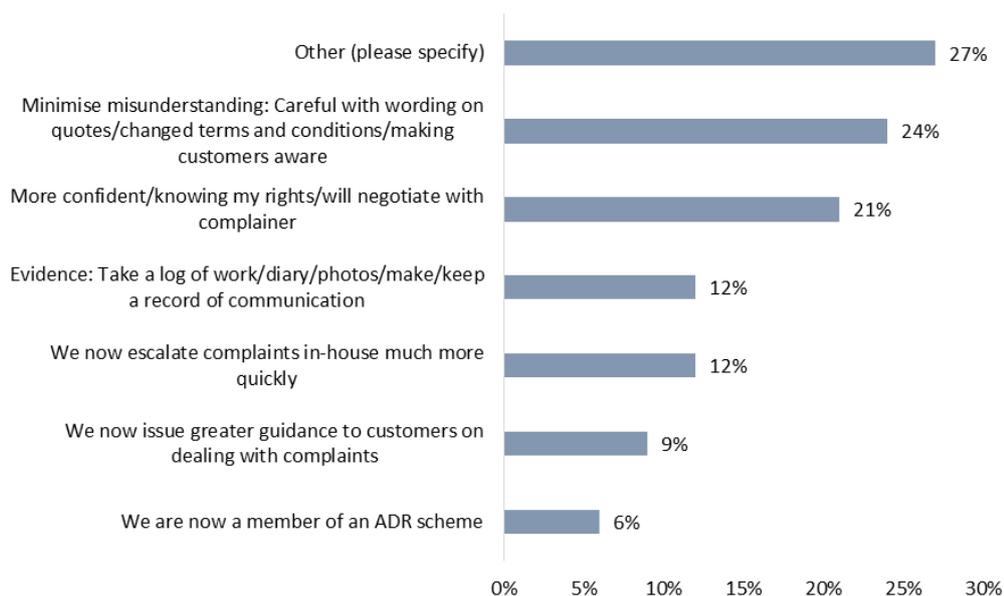
Figure 33 Changes to complaints handling processes and trader practices for trader who used the courts



Source: ICF. 2017. Courts Consumer CATI. Has this process resulted in changes to your complaints handling processes? [Q17]. N=176; and Has this process resulted in changes to your business practices? [Q18]. N=176.

The nature of the changes to traders’ complaints-handling processes is illustrated in Figure 34 below.

⁴⁷ ICF. 2017. Trader CATI. What changed in your complaints handling processes? [Q17a] N=33.

Figure 34 Nature of the changes to traders' complaints handling processes following court

Source: ICF. 2017. *Courts Trader CATI. What changed in your complaints handling processes?* [Q17a]. N=33.

ADR providers provide assistance to traders to improve their business practices and complaints-handling procedures. Forty-three per cent (n=16) of ADR providers offer guidance to help traders improve their practices and complaints processes, while workshops or training courses are given by 30 per cent (n=11). Other support activities offered are case studies, published reports, consultations and articles for traders⁴⁸. Support aimed to help traders identify systemic issues is also prevalent, for which ADR providers mentioned several means to cope with such issues. Providers of ADR offer different kinds of information to enable consumers and industry actors to make informed decisions, or having compliance officers that contact members in cases where the code has been repeatedly breached. Other ways to deal with systemic issues are to work directly with providers/traders and clarify the terms or to keep the industry regulators informed of any systemic issues or regulatory breaches. Finally, a failure to contact complainants is also mentioned as a systemic issue⁴⁹.

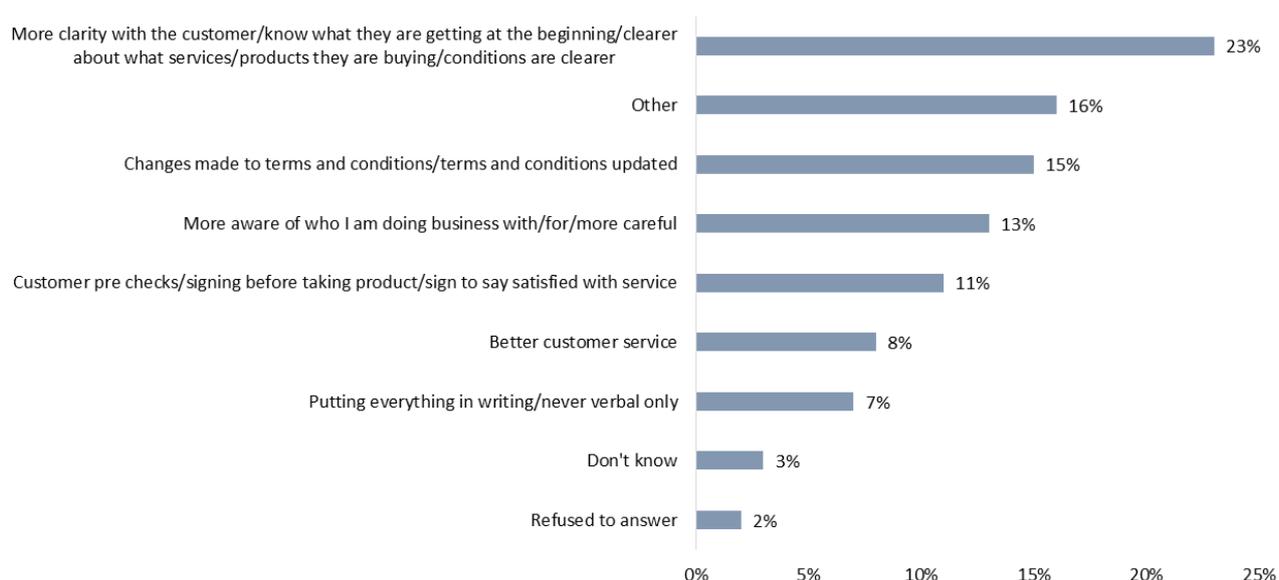
⁴⁸ ICF online survey for ADR providers. What work do you do to help traders improve their practices and complaints processes? Please provide specific examples of systemic issues that have been identified and addressed, [Q25].

⁴⁹ ICF online survey for ADR providers. What work do you do to help traders improve their practices and complaints processes? Please provide specific examples of systemic issues that have been identified and addressed, [Q25].

Impact on traders' practices

35 per cent (n=113) of traders who went to courts indicated that the process resulted in changes to their business practices⁵⁰. This is greater than the proportion of traders that changed their customer complaints-handling procedures as a result of the court process. However, among those who made changes to their trader practices, only 8 per cent (n=5) mentioned it has led to better customer service. Instead, 23 per cent (n=14) claimed that the changes have involved providing greater clarity to the customer regarding what they are getting or the services or products they are buying as well as purchase conditions. Traders also appeared to take a more cautious approach after the court process; specifically, 13 per cent (n=8) mentioned changes designed to ensure they are more aware and careful about who they are doing trader with/for, including customer pre-checks or pre-signing. Similarly, some traders said they now put everything in writing⁵¹. Figure 35 below illustrates the various changes made to business practices.

Figure 35 Nature of the changes to business practices following courts



Source: ICF. 2017. Courts Trader CATI. Changes to your business practices: Please provide one or two examples? [Q18a]. N=61.

While the court process appears to have led to a number of traders being more cautious and clearer regarding their offering (with little direct impact on customer service), interviews with traders who used ADR bear witness to a generally positive impact of the ADR process on business practices, especially related to increased consumer focus and the process. As a matter of fact, while three traders mentioned that there have not been

⁵⁰ ICF. 2017. Court Trader CATI. Has this process resulted in changes to your trader practices? [Q18]. N=176.

⁵¹ ICF. 2017. Court Trader CATI. Changes to your trader practices: Please provide one or two examples? [Q18a]. N=61.

any changes to their practices, four suggested various changes. One respondent mentioned that their ADR cooperation contributed to increased customer focus, which ultimately drove customer satisfaction. Two traders indicated becoming more customer oriented. One mentioned that working with the ADR led the company to adapt its processes and the training for its administrators, while another trader indicated they now try to delve into the very root cause of the problem their customers are experiencing. Two traders also mentioned that they now address issues faster and that the cooperation with the ombudsman service “made things speedy and precise”⁵².

⁵² ICF interview with ADR traders

Consumers' choice of ADR or the courts to resolve their dispute

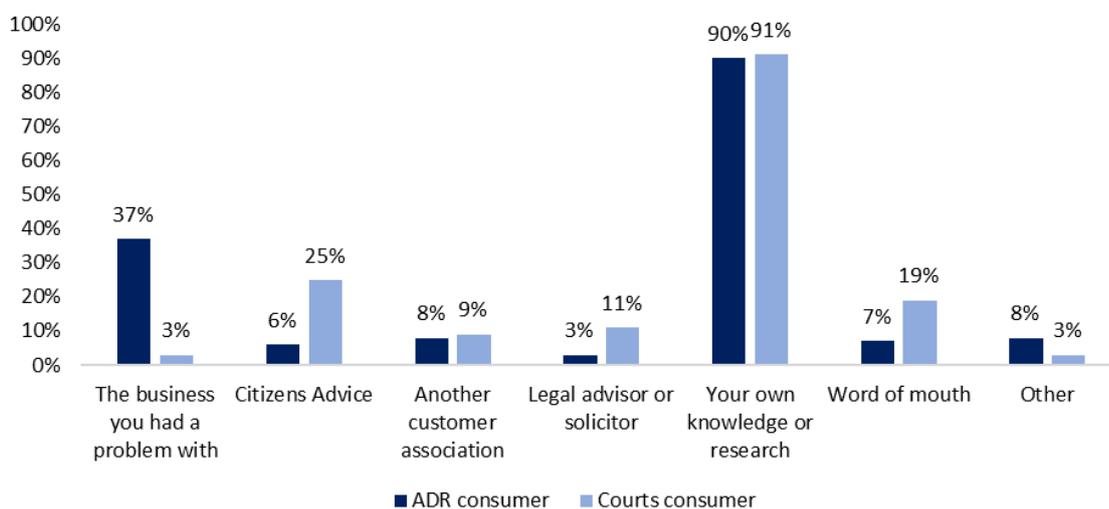
This section presents evidence related to the choice of ADR or the court system to resolve a dispute including consumer awareness, value of the dispute, and reasons for the choice.

Consumer awareness of ADR and the courts

Sources of information regarding ADR and courts

Consumers consulted a variety of sources of information on ADR and the courts (Figure 36). The sources of information on ADR used more widely include the consumer's own knowledge or research, information from the traders they had a problem with or from a customer association (other than Citizens Advice). The sources of information related to courts used more widely differ slightly from ADR sources – while the most popular source was again the consumer's own knowledge or research, the next most highly-used source was Citizens Advice and word of mouth.

Figure 36 How did consumers find out about ADR and the courts?



Source: ICF. 2017. Court Consumer CATI. I'm going to read out some ways in which you may have heard about the courts as a way to settle your problem? [Q6]. N=200, and ICF. 2016. ADR Consumer CATI. Did you find out about alternative dispute resolution from..., [Q6]. N=200

ADR providers cited traders' complaints procedures, consumers' own research and Citizens Advice as the main sources of information signposting consumers to their services (Figure 37). This finding suggests that there is an alignment between the sources of information on ADR schemes most commonly used by consumers and the perception of ADR providers regarding the way in which consumers become aware of their schemes.

Figure 37 Sources of information signposting consumers to ADR schemes



Source: ICF. 2015. Online survey of ADR providers. In your view, what are the main sources of information signposting consumers to the ADR services that you provide? (pick top 3). [Q6]. N=46. Multiple choice question.

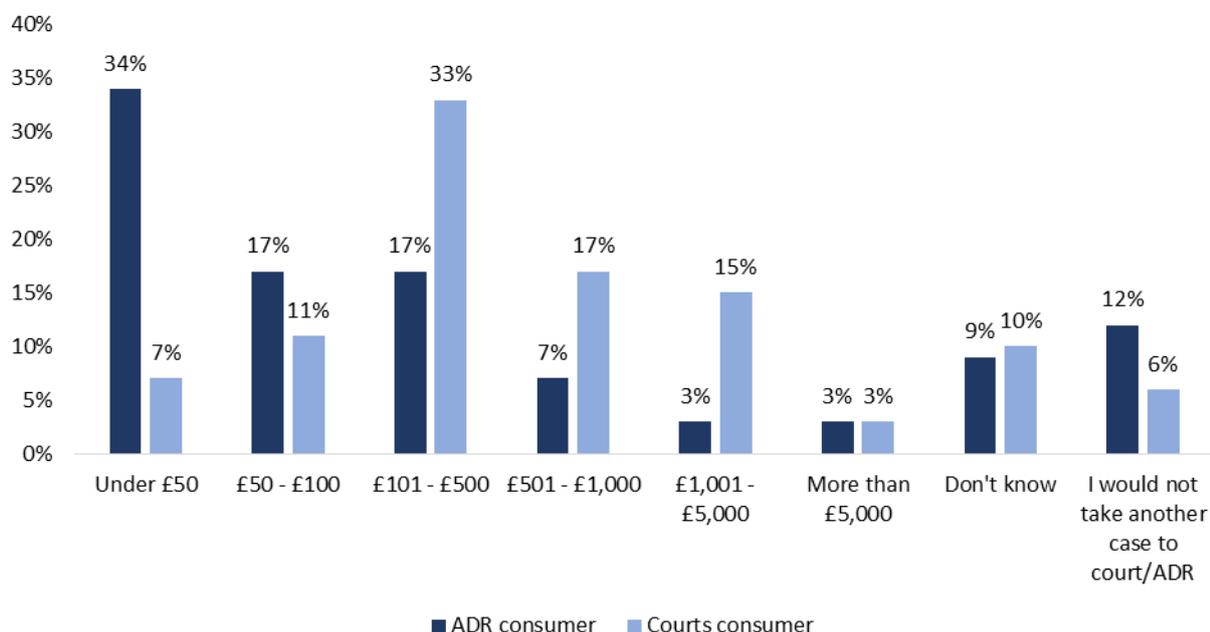
Most ADR providers interviewed do not directly undertake actions to raise awareness among consumers. Only two ADRs carried-out outreach campaigns and activities to raise awareness. Different levels of awareness across different groups of consumers were reported by these two ADR providers and were mentioned as a basis for targeted outreach actions to vulnerable people. These actions include publications in magazines, road shows in supermarkets, and partnerships with charities⁵³.

Value of dispute and choice of courts and ADR

Consumers reported that the minimum value of a case that they would consider taking to the courts is higher than for ADR (Figure 38). This supports the finding that the court process is more costly and more time consuming than the ADR process. Just over half (51 per cent) of consumers who used ADR said they would take a dispute to ADR if the value was under £100. In contrast, only 18 per cent of consumers who went to court indicated they would only go to courts for a dispute valued under £100. Figure 38 presents the distribution of values.

⁵³ ICF Interviews with ADR providers

Figure 38 Minimum values of a dispute to take it to courts/ADR



Source: ICF. 2016. ADR Consumer CATI. What, if any, would be the minimum value of a dispute you would take to alternative dispute resolution? [Q23]. N=200; and ICF. 2017. Courts Consumer CATI. What, if any, would be the minimum value of a dispute you would take to court? [Q23]. N=200.

Results from a Eurobarometer survey show slightly different values for which consumers would be inclined to go to court. The highest share of 17 per cent of UK survey respondents (consumers) said they would be inclined to involve courts in disputes involving financial losses of between £89 and £175 (€101-€200)⁵⁴, with a further 15 per cent of respondents indicating a threshold for involving courts of between £176 and £438 (€201-€500)⁵⁵. This is slightly below the results indicated in Figure 38. The financial threshold for involving ADR among UK respondents in the Eurobarometer study follows a similar pattern, where the largest share of respondents (16 per cent) cited a threshold of between £89 and £175 (€101-€200) followed by 14 per cent suggesting a threshold of between £176 and £438 (€201-€500)⁵⁶.

⁵⁴ This amounts to €101-€200 in 2011 EUR/GBP exchange rate. Monthly average exchange rate used is from April 2010 when the survey was running. In April 2010 1 GBP equalled EUR 1.140267. Source: <http://www.x-rates.com/average/?from=GBP&to=EUR&amount=1&year=2010>

⁵⁵ Eurobarometer. 2011. SPECIAL EUROBAROMETER 342 Consumer empowerment. p.217. How much would you have to lose in financial terms, because of a problem with a good, a service, a retailer or a provider, to convince you to take the trader concerned to court as an individual. QA38a.

⁵⁶ Eurobarometer. 2011. SPECIAL EUROBAROMETER 342 Consumer empowerment. p.221. How much would you have to lose in financial terms, because of a problem with a good, a service, a retailer or a provider, to convince you to take the trader concerned to an out-of-court dispute settlement as an individual. QA38b.

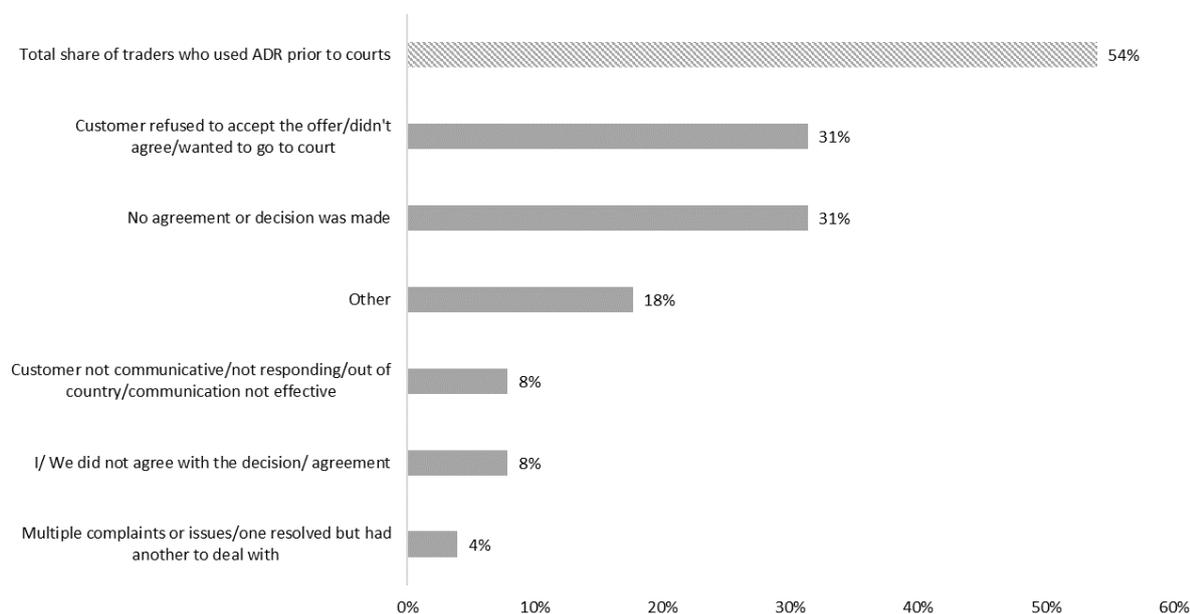
Why were disputes taken to courts and not resolved by ADR instead?

Cases where ADR was used but was not successful

Both traders and consumers with experience from the courts were asked whether their case went through an ADR mechanism prior to going to court. The majority of consumers and traders reported that they had used ADR before going to court. Fewer consumers⁵⁷ (33 per cent; n=65) than traders⁵⁸ (54 per cent; n=95) reported using ADR before resorting to courts.

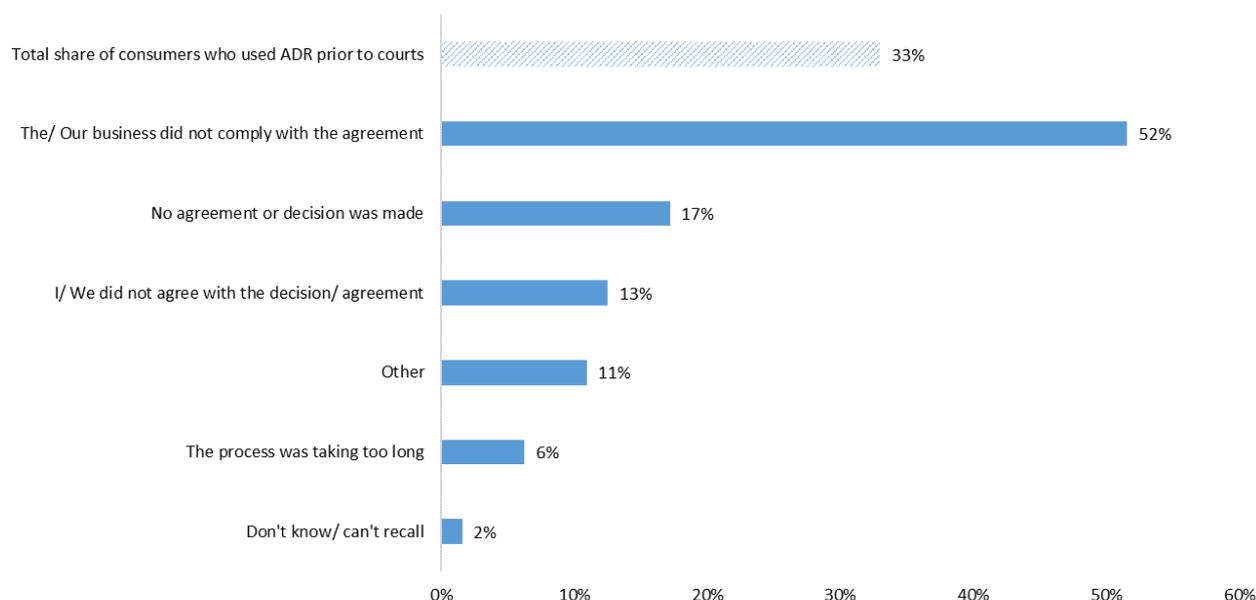
The reasons cited as to why ADR did not solve the problem vary between the traders and the consumers that used the courts. This is illustrated in Figure 39 below. In the case of traders that have used the courts, 32 per cent (n=16) said the ADR did not solve the problem because there was no agreement or decision made, and a further 32 per cent (n=16) said the customer did not accept the offer (or the customer wanted to go to court). Among the consumers who had used ADR before going to court, the most common reason cited as to why the ADR did not solve the problem was that the trader did not comply with the agreement, as mentioned by 52 per cent of the respondents (n=33).

Figure 39 Reasons why ADR did not solve the problem



⁵⁷ ICF. 2016. Courts Consumer CATI. Did you use a method of alternative dispute resolution or ADR before taking your problem to court? [Q10]

⁵⁸ ICF. 2017. Courts Trader CATI. Did the case go through alternative dispute resolution (ADR) before going to court? [Q6]



Source: ICF. 2017. Courts Trader CATI. Why didn't alternative dispute resolution solve the problem? [Q6a]. N=51; and ICF. 2016. Courts Consumer CATI. Why didn't alternative dispute resolution solve the problem? [Q10a]. N=64.

Cases where consumers did not use ADR prior to the courts

This section covers those disputes that were not taken to ADR before going to court. 66% of consumers surveyed did not use ADR before going to court, nor did 46% of traders.

Figure 40 and Figure 41 below illustrate the various reasons for why traders and consumers involved in courts disputes did not use ADR to address the problem⁵⁹. The main reason stated among traders is that the customer simply did not want to use ADR or went to courts without informing the company. Another common reason for rejecting ADR among traders was that the trader thought that the complaint was incorrect and was not prepared to compromise.

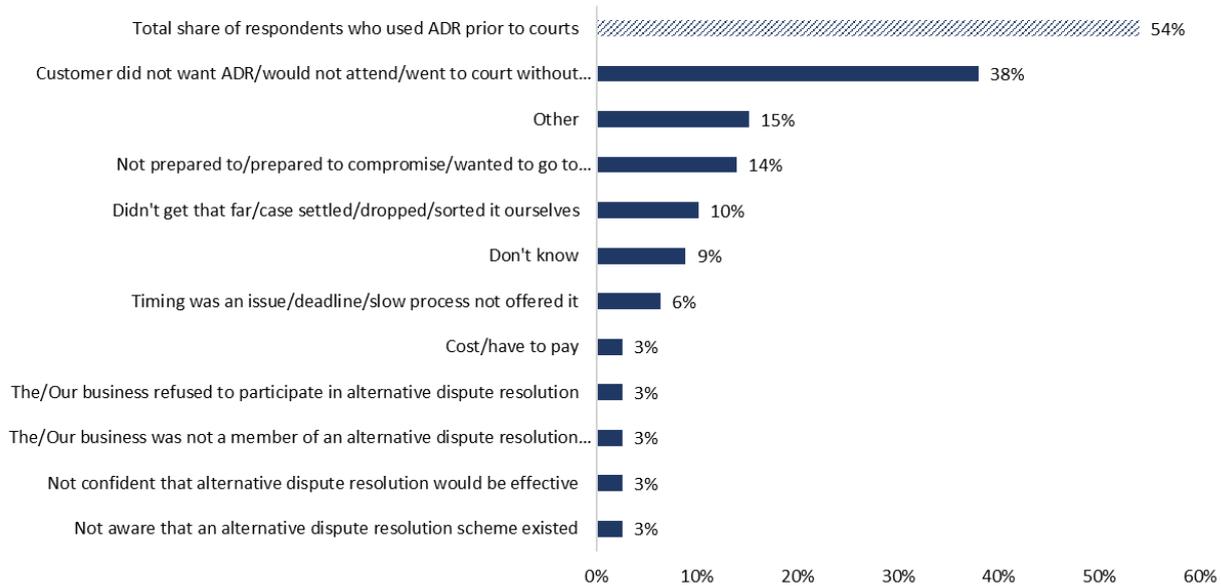
The reason most cited by consumers for not choosing ADR to address the problem was that the relevant trader refused to participate in ADR. Consumers also cited scepticism about the effectiveness of the ADR as another reason for not using ADR.

The majority of consumers who have used the courts showed a relatively high level of awareness of ADR⁶⁰. Only five per cent of consumers that did not use ADR before going to court, did so because they were not aware that an ADR scheme existed⁶¹.

⁵⁹ ICF. 2017. Court Trader CATI. Why wasn't alternative dispute resolution chosen to address the problem? [Q6b]; and ICF. 2016. Courts Consumer CATI. Why wasn't alternative dispute resolution chosen to address the problem? [Q10b]. N=73

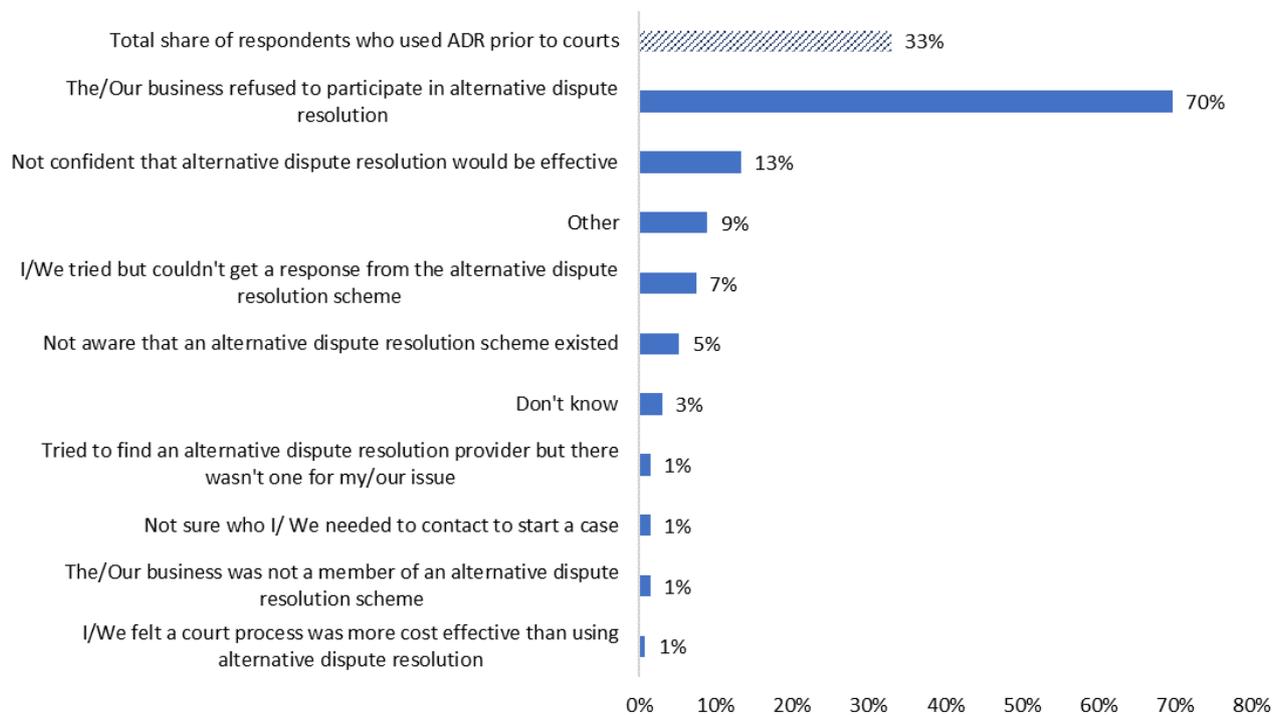
⁶⁰ ICF. 2016. Courts Consumer CATI. Did you use a method of alternative dispute resolution or ADR before taking your problem to court? [Q10]

Figure 40 Reasons given by traders not using ADR before going to court



Source: ICF. 2017. Courts Trader CATI. Why wasn't alternative dispute resolution chosen to address the problem? [Q6b]. N=79.

Figure 41 Reasons given by consumers for not using ADR before going to court



⁶¹ ICF. 2017. Court Consumer CATI. Why wasn't alternative dispute resolution chosen to address the problem? [Q10b]

Source: ICF. 2017. *Court Consumer CATI. Why wasn't alternative dispute resolution chosen to address the problem?* [Q10b]. N=135.

Reasons for choosing ADR over the courts

Traders that have used ADR mentioned that the main advantages of ADR are that disputes are settled quickly and this allows them to maintain their reputation⁶².

This is reinforced by the interviews with traders who used ADR. One interviewee specified that ADR is quicker, more specialised and also less costly for consumers⁶³. A legal expert interviewed for this study further suggested that every case would be better addressed by ADR especially if ADR includes all out-of-court settlements. The same expert also mentioned that there are actually no cases which would fail to be resolved by an ADR and where courts would be required⁶⁴. Two of the interviewed ADR providers agreed with this view, and suggested that, in some cases, consumers would be better served by ADR than by court⁶⁵.

Respondents to the online survey of ADR providers were also asked for reasons why they think that cases are not taken to ADR and what steps they think could be taken (by the government or by others) to encourage this to happen. The reasons for why cases are not taken to courts includes⁶⁶:

- trader refuse to take part in ADR or are unwilling to subscribe to a scheme. Also, that that there is no obligation on traders to agree to ADR;
- the Directive appears to be contradictory; e.g. a trader has to provide information but has no obligation to use it; and,
- there is a lack of awareness by consumers and traders, especially a lack of awareness and signposting to the ADR scheme by the trader.

Some traders who were involved in a court case are members of ADR schemes. The main reason they gave for using ADR was because it is a legal obligation, while others have ADR membership as part of a bigger package of membership to a trade association or other recognized body, as illustrated by Figure 42.

⁶² European Trader Test Panel (EBTP). 2011. *Alternative Dispute Resolution*. Survey running from 17 December 2010 until 17 January 2011

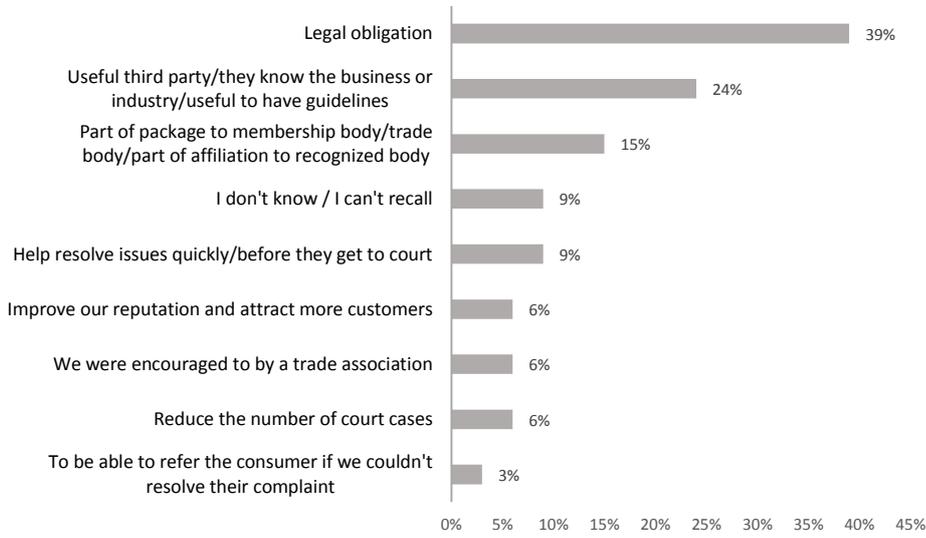
⁶³ ICF interviews with ADR providers

⁶⁴ ICF interviews with legal experts

⁶⁵ ICF interviews with ADR providers

⁶⁶ ICF interviews with ADR providers

Figure 42 **Reasons why traders use ADR**



Source: ICF. 2017. Courts Trader CATI. Why did you choose to join an ADR scheme? [Q20a]. N=33

Indicators for monitoring the effectiveness of ADR in future

An objective of this study was to suggest indicators which could be used to monitor the impact and effectiveness of consumer ADR in the UK, following the introduction of the ADR Directive.

Table 3 below presents suggested indicators, many of which are translated from the anticipated impacts/outcomes of the ADR Directive (as summarised in BIS' impact assessment⁶⁷). The specific indicators are categorised into three main areas: (i) awareness and accessibility of ADR; (ii) take up of ADR; and (iii) consumer experience of ADR.

Table 3 Baseline statistics

Category	Indicator	Estimate from this survey ⁶⁸
Awareness and accessibility of ADR	Proportion of consumers who used ADR who received information on ADR provider(s) from the relevant trader	37%
	Proportion of ADR providers that charge a fee	12%-18%
	Average consumer fee paid to access ADR procedures (excluding free schemes)	£90-£103 (excluding £0 fee schemes)
	Proportion of ADR cases involving protected/vulnerable consumers	12% of consumers using ADR are from low income households. 4% of consumers using ADR have no educational qualification. 1% of consumers using ADR are aged 16-24 years. 28% of consumers using ADR are aged 65 or more.
	Proportion of consumers who are aware of ADR	Regulated sectors: 28% ⁶⁹ Non-regulated sectors: 16% ⁷⁰

⁶⁷ BIS. 2014. 'Implementing the Alternative Dispute Resolution Directive and Online Dispute Resolution Regulation – Impact Assessment'.

⁶⁸ Some of these estimates are obtained from other sources. Where this is the case the appropriate source is provided in footnotes.

⁶⁹ Citizens Advice 2016. Understanding consumer experiences of complaint handling.

⁷⁰ Ibid

Category	Indicator	Estimate from this survey ⁶⁸
Take up of ADR	Proportion of disputes which are taken to ADR	14% (energy disputes only) ⁷¹
	Proportion of court cases that went to ADR beforehand	43% of cases
	Proportion of court cases which are of low value	4% of court cases are cases with compensation below £100. 28% of court cases are cases with compensation below £500.
Consumer experience of ADR	Proportion of consumers who indicate they are likely to use ADR again	69% likelihood to use ADR again
	Proportion of consumers experiencing a problem while using ADR	46%
	Average duration of ADR processes	1-3 months
	Proportion of cases lasting more than 90 days	41%
	Proportion of ADR decisions honoured by the traders	84% (of which 16% were honoured in part)
	Proportion of consumers who find the ADR process simple/complicated	Find the process simple: 62% Find the process complicated: 22%

Source: ICF

The basis for the data values reported in the table above is described in further detail below:

- Average consumer fee paid to access ADR procedures.** There are no consolidated data on ADR scheme fees and, therefore, data has been used from the ICF survey of ADR providers and from ADR providers' websites and annual reports. The sample sizes (on which the fee information is based) are low and so caution is required in interpreting results. The aggregation of data collected from ADR scheme websites and annual reports indicates that 88 per cent (30 of 34 providers) of ADR providers said they do not charge consumers fees. Similarly, 82 per cent of the ADR providers surveyed for this study said they do not charge a fee (14 of 17 respondents)⁷². Across the different sources, the consumer fee reported by ADR providers ranged from £20 (for a mediation service⁷³) to £264 (for ABTA⁷⁴). Looking at the averages of both samples, excluding no-fee schemes, it ranges from £90 to £103.
- Average duration of ADR process.** The study found that a majority of ADR consumers reported the process to take between 5 weeks and 9 months (38 per

⁷¹ BEIS Public Attitudes Tracker wave 24.

⁷² ICF Online survey of ADR providers. Do you charge fees to consumers for the ADR services you provide? [Q19]. N=17. And How much, on average, do you charge consumers for ADR services? [Q19a]. N=17

⁷³ The ICF online survey of ADR providers was anonymous

⁷⁴ Note: in the case of ABTA, consumer fees are to be paid if no settlement is found and the case goes to arbitration

cent indicated it took 5 to 12 weeks and 41 per cent indicated it took 3 to 9 months)⁷⁵. The literature estimates that the average duration of an ADR case is between one and three months⁷⁶. As the Directive sets a three-month maximum, the baseline value of the duration of the ADR scheme is set to on average one to three months. In addition, it is estimated that 41 per cent of cases takes over 3 months.

- **Proportion of consumers who receive information on ADR provider(s) from the relevant trader.** It is estimated that 37 per cent of ADR consumers received information on ADR provider(s) from the relevant trader with whom they were in dispute based on responses to the CATI survey of consumers who used ADR⁷⁷.
- **Proportion of ADR cases involving protected/vulnerable consumers.** The CATI survey of consumers who used ADR provides information on the percentage of ADR cases involving protected/vulnerable consumers⁷⁸. The figures show that: 12 per cent of consumers using ADR are from low income households⁷⁹, where the yearly household income is less than £20,000⁸⁰; four per cent of consumers using ADR have no formal educational qualification⁸¹ and 1 per cent of consumers using ADR are aged 16-24 years while 28 per cent are aged 65 or over⁸².
- **Proportion of consumers who find the ADR process simple/complicated.** The share of consumers using ADR that experience the process as very simple or quite simple is 62 per cent (n=123)⁸³ while 22 per cent (n=43) see it as complicated.
- **Proportion of court cases that went to ADR beforehand.** The percentage of court cases that were taken to ADR beforehand is on average 43 per cent. This value is calculated as the total number of consumers and traders that have used ADR before going to courts (total of 160) divided by the total number of consumers and traders that have used the courts (total of 376)⁸⁴.

⁷⁵ ADR Consumers CATI. How long did the process take from the point at which you took the problem to alternative dispute resolution to the point at which the problem was resolved? [Q18]. N=180

⁷⁶ Civic Consulting. 2009. 'Study on the use of Alternative Dispute Resolution in the EU' as quoted in OFT. 2010. 'Mapping UK consumer redress: A summary guide to dispute resolution systems'.

⁷⁷ ICF. 2016. ADR Consumers CATI. Did you find out about alternative dispute resolution from... [Q6]. N=200

⁷⁸ Vulnerable consumers include consumers with low income households (yearly household income is below £20,000); low educational attainment (does not hold a formal educational qualification); young people (16-24 years) and older people (65 years or older).

⁷⁹ The threshold of income poverty is based on the following 2017 study:
<https://www.jrf.org.uk/report/minimum-income-standard-uk-2017>

⁸⁰ ICF. 2016. ADR Consumers CATI. Total household income. [Q27]. N=200

⁸¹ ICF. 2016. ADR Consumers CATI. Education level. [Q26]. N=200

⁸² ICF. 2016. ADR Consumers CATI. Age. [Q25]. N=200

⁸³ ICF. 2016. ADR Consumers CATI. How simple did you find the process? [Q20]. N=200

⁸⁴ ICF. 2017. Courts Consumers CATI. Did you use a method of alternative dispute resolution or ADR before taking your problem to court? [Q10]. N=200 and ICF. 2017. Courts traders CATI. Did the case go through alternative dispute resolution (ADR) before going to court? [Q6]. N=176

- **Proportion of court cases which are of low value.** The percentage of all court cases that of low value (below £500) is estimated to be 28 per cent. This is calculated as the sum of courts cases with low compensation (n=105) divided by all courts cases (consumer and trader cases) (n=376)⁸⁵. Moreover, the percentage of all court cases that are below £100 is 4 per cent, calculated in a similar manner (14 cases below £100 divided by 376 total number of court cases).
- **Proportion of disputes which are taken to ADR.** The proportion of disputes (i.e. complaints which could not be resolved with the trader) which are taken to ADR was not estimated in this study. BEIS's Public Attitudes Tracker estimates this proportion for the energy market and found that 14% of consumers who had a complaint with their energy supplier that they couldn't resolve internally took their complaint to ADR⁸⁶.
- **Proportion of consumers experiencing a problem while using ADR.** An estimated 46 per cent (n=92) of the consumers using ADR stated that they experienced problems in using alternative dispute resolution in the case of their customer complaint⁸⁷.
- **Proportion of ADR decisions honoured by the traders.** The proportion of ADR decisions honoured by traders is 84 per cent (n=151). Of these, 68 per cent (n=122) are honoured in full whereas 16 per cent (n=29) are honoured in part⁸⁸.
- **Proportion of consumers who are aware of ADR.** Data on awareness was not captured in this study. Citizens Advice's 2016 report "Understanding consumer experiences of complaint handling" estimates that 28% of consumers with a complaint in a regulated sector, and 16% of consumers with a complaint in a non-regulated sector, were aware of ADR
- **Proportion of consumers who indicate they are likely to use ADR again.** A total of 69 per cent (n=138) of consumers with experience from ADR stated that they are very or somewhat likely to use alternative dispute resolution again to settle a similar customer dispute. On the other side, 26 per cent are unlikely to use ADR again⁸⁹.

⁸⁵ ICF. 2017. Courts Consumers CATI. What was the value of the refund or compensation? [Q4]. N=200 and ICF. 2017. Courts traders CATI. What was the value of the refund or compensation the customer was asking for? [Q5a]. N=176

⁸⁶ BEIS Public Attitudes Tracker wave 24.

⁸⁷ ICF. 2016. ADR Consumers CATI. Did you experience any problems in using alternative dispute resolution in the case of your customer complaint? [Q8]. N=200

⁸⁸ ICF. 2016. ADR Consumers CATI. Has the decision been honoured? i.e. have you or the business taken the actions requested by... [Q16a]. N=180

⁸⁹ ICF. 2016. ADR Consumers CATI. Q22. How likely would you be to use alternative dispute resolution again to settle a similar customer dispute? [Q22]. N=200

ANNEXES

Methodology

Online survey of ADR providers

A short online questionnaire was sent to ADR providers. The questionnaire focused on gathering quantitative data and evidence on previous ADR cases, covering the volume of cases, value of redress, duration of processes, outcomes, and average fees. It also covered the views of ADR providers on systemic issues and changes in trader practices as a result of ADR cases.

The ADR providers were identified on the basis of the list of approved ADR schemes provided by BEIS and expanded further to include contact details of ADR providers not certified (and for which contact details were available online). This ensured the questionnaire was distributed widely to all (or the majority of) ADR providers to maximise the response rate and the potential sample of cases. In addition, as agreed during the inception phase, the focus was on ADR schemes that did not cover the public sector. A total of 89 ADR providers received the online questionnaire.

The questionnaire was converted into Snap Survey software. An email invitation to complete the questionnaire was sent to all ADR providers, followed by three email reminders and at least three phone calls where phone numbers were available. The online questionnaire remained open for six weeks to allow sufficient time for completion.

ICF received 17 completed questionnaires, which represent a response rate of 19 per cent.

Qualitative interviews with ADR providers

The objective of the qualitative interviews was to gather additional qualitative information to complement the data from the online questionnaire (see section 0). The interviews covered how providers identify and address systemic issues (if at all), how they engage with third-parties and other stakeholders (for example, regulators), how traders respond to ADR decisions and if they adhere to these, how ADR providers interact with each other and barriers consumers face in accessing these ADR schemes.

The target was to conduct six interviews; several criteria were applied to ensure a mix of providers, including by:

- sector;
- type of ADR (ombudsman, mediator, arbitrator);
- legal status (public/statutory body, not-for-profit, trade association);

- mandatory (by law) or voluntary scheme; and
- size (based on the number of enquiries and cases resolved).

The list of selected ADR schemes and the status of the interview are presented below in Table 4.

Table 4 ADR schemes contacted for in-depth interview

ADR	Sector	Type	Legal status	Statutory	Nb enquiries in 2015	Nb Cases resolved in 2015	Status
British Vehicle Rental and Leasing Association	Automotive	Mediator	Not-for-profit company	No	775	794	Completed
The Property Ombudsman	Real estate	Ombudsman	Not-for-profit company	Yes	34,313	2,580	Completed
Furniture Ombudsman	Retail	Ombudsman	Not-for-profit company	No	125,000	4,053	Completed
Ombudsman Services	Energy and communication	Ombudsman	Not-for-profit company	Yes	12,100	65,313	Completed
Financial Ombudsman Service	Finance	Ombudsman	Public / statutory body	Yes	2,161,439	448,387	Completed
Motor Codes Limited	Motor	Mediator/ Arbitrator	Public / statutory body	No	1,292	1,292	Completed
Consumer Credit Association	Consumer credit	Mediator	Trade association	Yes	420	1	Partially completed ⁹⁰
RECC	Energy	Mediator/ Arbitrator	Not-for-profit company	No	1,484	145	Refused

Quantitative survey of consumers and traders

GfK was contracted to conduct quantitative surveys of consumers and traders using Computer Assisted Telephone Interviewing (CATI). Table 4 summarises the number of interviews conducted by type.

⁹⁰ To accommodate the interviewee, the interview was shorter and only certain questions were asked.

Table 5 Response rates

CATI	Valid leads	Interviews conducted	Survey Period
ADR Consumer	408	200	10 to 20 March and 16 to 21 June 2016
Court Consumer	1,000	200	13 to 29 September 2017
Court Traders	1,095	176	13 to 29 September 2017

Quantitative survey of ADR consumers

The objective of the survey was to interview a sample of 200 consumers who had used Alternative Dispute Resolution (ADR) services to address a consumer dispute within the last 12 months⁹¹. The survey collected information regarding:

- Consumer use of the ADR system: the nature of disputes, the value of disputes, the length and cost of the process as well as the overall experience and any related issues.
- Consumer welfare resulting from using the ADR process as opposed to alternative courses of action.

The sample was sourced via ADR providers who administered an opt-in approach as it was the case that, in the majority of cases, the consumers on their databases had not agreed to research activities via a third party. The ADR providers emailed relevant cases (i.e. those involved in consumer disputes within the last 12 months) explaining the forthcoming research and asking them to confirm their willingness to be contacted. Consumers could opt-in via email or using an online link.

A total of 441 leads were received. After review, 23 leads were removed, because they did not provide a telephone number, stated they did not wish to participate on the telephone (or after their initial agreement) or were not UK based. Ten leads were used in the pilot test exercise, leaving 408 leads in the sample for the mainstage survey.

Mainstage interviewing ran from 10th to 20th March 2016 and again from 16th to 21st June 2016 when additional sample became available from some ADR providers. In total, 200 interviews were achieved.

⁹¹ ADR providers were asked to contact consumers who have used their services in the last 12 months, however in the interview, people were allowed through if their cases took place in the last 24 months.

Quantitative survey of court consumers and traders

The objective of the survey was to interview a sample of 200 consumers and 200 traders who had used the courts to address a consumer dispute within the last 12 months⁹². The survey collected information regarding consumer and trader use of the court system (i.e. nature of disputes, value of disputes, length and cost of the process as well as the overall experience and any related issues).

The sample was sourced via Her Majesty's Courts and Tribunals Service (HMCTS) through BEIS. BEIS worked with HMCTS to filter relevant sample. BEIS went through a process of cleaning and de-duping the sample. They securely sent GfK two files, one for consumer respondents (containing 1200 leads) and one for trader respondents (containing 1095 leads). After discussion with BEIS, GfK used the most recent cases from the consumer sample (just over 1000 were used) and all of the trader sample.

In total, 376 interviews were conducted between 13th and 29th September 2017 (200 consumer and 176 trader).

Qualitative interviews of ADR traders

The method of approach was updated to conduct 15 qualitative interviews instead of 200 quantitative surveys with ADR traders. This was updated on the basis of the number of leads received from ADR providers which was not sufficient for a CATI survey.

ICF contacted by email the 47 traders who opted-in to update them on the new approach and arrange an in-depth interview. However, it transpired that the majority of those who responded had actually used ADR to seek redress rather than to resolve a complaint raised by a customer of their trader (of 18 responses received, six refused to take part and 12 used ADR to seek redress for their trader). ICF believes that there was a misunderstanding following the first request to gather contact details. On that basis, ICF contacted the ADR providers who had previously agreed to help gather contact details of traders and consumers and requested to share the contact details of their members/affiliate organisations who have used their services in the past 12 months. The original email was followed by a call and an email reminder the following week. A number of them provided organisations' names and/or phone numbers but none of them had an email address. The final sample comprised 36 traders; they were contacted by email and phone and six of them agreed to take part to the interview.

Qualitative interviews with legal experts

The aim of the qualitative interviews with legal experts was to understand the types of cases often brought to courts (and if a 'typology' could be derived from these cases), barriers to consumers accessing the courts, the time and cost of a case (and how this contrasts with alternatives to courts), whether traders comply with court rulings and

⁹² In the interview, people were allowed through if their cases took place in the last 24 months.

suggestions for how the system can be improved. The target was to conduct four interviews.

The legal experts were identified via an internet search, using key words such as 'consumer dispute' or 'solicitor'. Further specialist law firms were also identified during discussions with BEIS. The companies were contacted via email. The email was followed by two reminder emails and one call. Of the 15 solicitors contacted, only three agreed to an interview.

Follow-up interviews with ADR consumers

Three follow-up interviews were conducted with consumers who had used ADR and taken part in the CATI survey. The interviews aimed to explore further some of the survey responses. A set of criteria was defined, based on specific answers to certain questions, to select the consumers to interview.

List of identified ADR schemes

Table 6 below details the list of all identified ADR schemes in the UK as at the end of 2015. Some of these are public sector ADR schemes and are out of scope for this study. These have been shaded in blue.

Table 6 ADR schemes in the UK

Ref	Sector	Name of ADR provider
1	Financial service activities, and insurance and pension funding K.64-65	Financial Ombudsman Service
2	Financial service activities, and insurance and pension funding K.64-65	The Pensions Ombudsman
3	Financial service activities, and insurance and pension funding K.64-65	Consumer Credit Association UK
4	Financial service activities, and insurance and pension funding K.64-65	Consumer Credit Trade Association
5	Financial service activities, and insurance and pension funding K.64-65	Debt Managers Standards Association
6	Water supply E.36	CC Water
7	Water supply E.37	WATRS (set up in 2015 hence lack of data)
8	Construction F.41	National House Builders Council
9	Construction F.41	Consumer Code for Homebuilders
10	Electricity and gas supply D.35	Energy Ombudsman Service
11	Legal/accounting services M.69	Association of Accounting Technicians
12	Legal/accounting services M.69	Scottish Legal Complaints Commission
13	Legal/accounting services M.69	Legal Ombudsman
14	Legal/accounting services M.69	Chartered Institute of Public Finance and Accountancy (CIPFA)
15	Legal/accounting services M.69	Institute of Chartered Accountants of England and Wales
16	Legal/accounting services M.69	Institute of Chartered Accountants of Scotland
17	Legal/accounting services M.69	Estate Planning Arbitration Scheme
18	Legal/accounting services M.69	Association of Chartered Certified Accountants (ACCA)
19	Funeral and related activities S.96.03	Funeral Arbitration Scheme
20	Funeral and related activities S.96.03	The Funeral Planning Authority (FPA Arbitration Scheme)
21	Repair of computers and personal and household goods S.95	Domestic Appliances Services Association
22	Repair of computers and personal and household goods S.95	The Association of Master Upholsterers & Soft Furnishers
23	Sports activities and amusement and recreation activities R.93	Independent Football Ombudsman

Ref	Sector	Name of ADR provider
24	Gambling R.92	Independent Panel for Casino and bingo Arbitration
25	Gambling R.92	Independent Betting and Adjudication Service
26	Gambling R.92	eCOGRA
27	Residential care activities Q.87	Social Care Ombudsman
28	Education P.85	Office of the Independent Adjudicator
29	Travel agency, tour operator and related activities N.79	ABTA arbitration and mediation schemes
30	Travel agency, tour operator and related activities N.79	Travel Trust Association
31	Rental and leasing activities (non-household) N.77	Finance and Leasing Association
32	Rental and leasing activities (non-household) N.77	British Vehicle Rental and Leasing Association
33	Architecture and engineering activities M.71	Chartered Institute of Architectural Technologists
35	Real Estate L.68	The Property Ombudsman
36	Real Estate L.68	Ombudsman Services: Property
37	Real Estate L.68	Tenancy Deposit Scheme
38	Real Estate L.68	Deposit Protection Service
39	Real Estate L.68	Housing Ombudsman Scheme
40	Real Estate L.68	Property Redress Scheme
41	Real Estate L.68	mydeposits England and Wales
42	Telecommunication activities J.61	Communications and Internet Services Adjudication Scheme (CISAS)
43	Telecommunication activities J.61	Ombudsman Services: Communications
44	Retail - other household equipment G47.5	The Furniture Ombudsman
45	Retail - other household equipment G47.5	Carpet Foundation
46	Retail - other household equipment G47.5	Kitchen Bathroom Bedroom Specialists Association
47	Retail - cultural and recreational goods G47.6	Antiquarian Booksellers Association
49	Retail - cultural and recreational goods G47.6	British Antique Dealers Association
50	Human health activities and social care activities Q.86	British Healthcare Trades Association
51	Human health activities and social care activities Q.86	Parliamentary and health Ombudsman
52	Human health activities and social care activities Q.86	Independent Sector Complaints Adjudication Service
53	Human health activities and social care activities Q.86	Dental Complaints Service
54	Human health activities and social care	Optical Consumer Complaints Service (OCCS)

Ref	Sector	Name of ADR provider
	activities Q.86	
55	Other retail trade (non-motor vehicles) G.47	Textile Services Association
56	Other retail trade (non-motor vehicles) G.47	Petrol Retailers Association
57	Specialised construction activities F.43	Double Glazing and Conservatory Ombudsman Scheme
58	Specialised construction activities F.43	The Glazing Ombudsman
59	Specialised construction activities F.43	Glass and Glazing Federation
60	Specialised construction activities F.43	Home Insulation and Energy Systems Assured Contractors Scheme
62	Specialised construction activities F.43	Green Deal Ombudsman
63	Specialised construction activities F.43	Chartered Institute of Plumbing and Heating Engineering
64	Specialised construction activities F.43	Scottish and Northern Ireland Plumbing Employers Federation
65	Specialised construction activities F.43	Painting and Decorating Association
66	Specialised construction activities F.43	Scottish Decorators Federation
67	Specialised construction activities F.43	Renewable Energy Consumer Code
68	Specialised construction activities F.43	National Federation of Roofing Contractors
69	Specialised construction activities F.43	Royal Institute of Chartered Surveyors
70	Specialised construction activities F.43	Trustmark Arbitration and Conciliation Schemes
71	Trade and repair of motor vehicles G.45	Motor Codes Ltd
72	Trade and repair of motor vehicles G.45	Retail Motor Industry Federation
73	Trade and repair of motor vehicles G.45	Scottish Motor Trade Association
74	Trade and repair of motor vehicles G.45	Vehicle Builders & Repairers Association Ltd (VBRA)
75	Trade and repair of motor vehicles G.45	National Conciliation Service
76	Trade and repair of motor vehicles G.45	National Caravan Council
77	Transportation air H.51	Civil Aviation Authority
78	Transportation other H49-50	Bus Appeals Body
79	Transportation other H49-50	Transport Focus
80	Transportation other H49-50	London Travel Watch
81	Transportation other H49-50	Removals Industry Ombudsman Scheme
82	Transportation other H49-50	British Association of Removers
83	Transportation other H49-50	Independent Appeals Service
84	Postal and courier activities H.53	The Postal Redress Service (POSTRS)
85	Accommodation I.55	Resort Development Organisation
86	Public administration O.84	Scottish Public Services Ombudsman (SPSO)

Ref	Sector	Name of ADR provider
87	Public administration O.84	Northern Ireland Ombudsman
88	Public administration O.84	Local Government Ombudsman
89	Public administration O.84	Parliamentary and health Ombudsman
90	Public administration O.84	Independent Police Complaints Commission
91	Cross sector	Direct Selling Association
92	Cross sector	The Retail Ombudsman
93	Cross sector	Independent Consumer Redress Service from IDRS
94	Cross sector	Ombudsman Services: Copyright Licencing
95	Cross sector	Small Claims Mediation



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