



Alternative Dispute Resolution Service: Guide for members

The British Association of Landscape Industries ("the Association") has teamed up with Dispute Resolution Ombudsman ("the Ombudsman") to offer an independent approach to resolving disputes between domestic customers ("Customers") of registered contractors and designers ("Members"). The Ombudsman is a not-for-profit organisation specialising in the resolution of disputes between parties.

This partnership with the Ombudsman will ensure Members and their Customers have access to an impartial provider of dispute services, who has the expertise to resolve disputes before they escalate. The Ombudsman's obligation is to make a decision that will resolve the dispute and offer an alternative to the courts.

The Ombudsman is a government approved provider of Alternative Dispute Resolution in the United Kingdom and referenced on the Chartered Trading Standards Institute's website as such. The Ombudsman also maintain links with a wide range of stakeholders including the Citizens Advice service and regional Trading Standards offices. Many Ombudsman staff are legally qualified and are Associates of the Chartered Institute of Arbitrators (CIArb).

When administrating disputes on behalf of the Association, the Ombudsman has regard to all relevant customer and contract legislation.

When the Dispute Resolution Service can be used:

The Dispute Resolution Service can be used if:

- A contractor or designer was a fully accredited Member of the Association when the project started
- The Member has investigated and attempted to resolve any issues raised by the Customer using their own internal processes before contacting the Ombudsman. The member must share evidence of this with the Ombudsman.
- The customer is required to have referred the complaint to the Dispute Resolution Service within 3 months of receiving their final offer of settlement or response to their complaint from the Member.

When the Dispute Resolution Service cannot be used:

The Dispute Resolution Service cannot be used if:

- A contractor or designer was not a fully accredited Member of the Association when the project started
- The work was completed for a commercial Customer.
 - Whilst the Ombudsman also offer a business-to-business service, this falls outside of the offering provided in conjunction with the Association.
- The member has entered administration, liquidation or has ceased trading.
- The Customer is neither a party to the contract with the Member nor acting on behalf of a party to the contract with the Member
- The complaint is not made as a Customer of the Member
- The complaint is being, or has been, dealt with by a Court or another tribunal
- The Customer has referred their complaint to the Ombudsman more than 3 months after receipt of a final offer of settlement or answer from the Member .
- The complaint is about a finance agreement

What actions are expected from the Member and Customer in relation to the Dispute Resolution process?

Members and their Customers are expected to attempt to resolve issues that arise during a project using the Members' own internal complaints procedure.

If this internal process fails and the Customer raises a complaint via the Ombudsman, the Member will be notified of the dispute and asked to provide a response within 14 days.

The Customer and Member are expected to submit a suite of evidence to the Ombudsman, which supports their respective written statement. This evidence submission may include:

- Contracts including terms and conditions
- Design documentation
- Evidence of pre-contract information
- Photographs/Videos
- Aftercare and maintenance information
- Variation orders
- Relevant communication, including emails, text and WhatsApp messages

The Customer and Member are also required to complete a separate resolution form, in which they will detail the complaint and expectations from using the Dispute Resolution Service.

What is the dispute resolution process?

Following receipt of two sets of paperwork and supporting evidence, the Dispute Resolution Ombudsman will carry out checks to ensure the case meets the criteria for review. Where necessary, the Ombudsman will contact parties for additional evidence before proceeding with the service.

Where an inspection of the work is necessary to make a fair and reasoned decision, an independent expert will contact the Customer to arrange a convenient time to visit. If the Customer rejects this, the dispute resolution process will cease due to lack of evidence.

Once assessment is complete, a written report will be sent to the Customer and Member. This includes the Ombudsman's verdict on the validity of the complaint and any action that should be taken to resolve it.

How long will the Dispute Resolution process take?

Most cases take between 30 and 60 days, however, if an independent inspection is required, or where the case is particularly complex the process may take in the region of 90 days.

Due to the high volume of cases received by the Ombudsman, it is necessary to deal with each case in the order in which it is received. Members and Customers shall be advised what the likely timeframe will be by the Ombudsman.

If the situation changes, or if there is any new information that you wish to be considered, please contact us with this, ensuring that you quote the case reference number, and we will update your case file.

During a case, Members can expect to receive updates from the Ombudsman at the following stages:

- When the Ombudsman receive a completed Customer Resolution Form
- When the Ombudsman has conducted their initial case review, if they decide further information is required either from the Member or Customer, or third party inspection is required
- When the Ombudsman has made their decision

Will members need legal representation?

Neither party is obliged to appoint a lawyer or legal advisor to access the dispute resolution service, and the Ombudsman cannot resolve disputes where either party has already started court proceedings against the other.

The Ombudsman can liaise with third parties if members wish, but request members confirm the details of any third party acting on their behalf in writing. If court proceedings have been initiated, the Ombudsman cannot correspond with the parties involved regarding this.

The Association remind members they are entitled to free, unlimited legal advice from the Association's free legal helpline, Quest.

When can a Customer complain to the Ombudsman?

- If the Member was an accredited member at the time the service was delivered.
- The member has investigated the complaint and provided a final response.
- It has been 4 weeks since the Customer's initial complaint and they do not believe they have received a satisfactory response.

How will the Ombudsman assess the complaint?

The Dispute Resolution Ombudsman is a recognised alternative dispute resolution body and will determine cases along the same principles as those used by the courts.

Each case will be decided based on the evidence available and the relevant legal position; the Ombudsman will need to be convinced that any issue – in whole or in part – is the responsibility of the Member. It will not be sufficient for the Customer to make unsupported allegations or statements. Any evidence provided will be evaluated by the Ombudsman.

The Ombudsman will take account of relevant consumer legislation, together with the requirements of the Association's Terms of Membership and Code of Conduct. The Ombudsman will award compensation where appropriate.

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

Offers made to resolve complaints informally

The Ombudsman will always consider and actively promote and facilitate any opportunities for reaching a settlement between both parties.

If the Ombudsman rules in the customer's favour, what is the likely outcome?

The Ombudsman may make an award for Members to carry out repeat performance of their contracted services to resolve the complaint.

Although the Ombudsman can make practical and financial awards solely to cover financial losses, there are limits to what the Ombudsman can do. For example, the Ombudsman cannot insist a business delivers goods they have not delivered but can advise the customer on whether they have the right to cancel a contract.

If the decision is accepted by the Customer, it becomes binding on the Member and legally enforceable. The decision will also be notified to the Association's Membership team as part of their ongoing endorsement process.

What happens if the award is accepted by the customer?

If the Customer accepts the award, it becomes a full and final settlement and is binding on the Member. The Customer is prevented from making any further claims against the Member in relation to this case.

Once notified by the Ombudsman and accepted by the Customer, Members are expected to contact the Customer within 28 days to schedule the action specified.

What if the Customer does not accept the Ombudsman's decision?

If the Customer does not accept the Ombudsman's decision, they retain their right to pursue the matter through alternative channels. Customers can withdraw from the process at any time and the outcome only binding if the Customer agrees with the Ombudsman's decision.

Whilst no legal rights are affected by the Ombudsman's decision, it may be considered by a Court.

What if a Member does not agree with the Ombudsman's decision?

The Ombudsman's decisions are binding upon Members under the Association's code of conduct.

Non-compliance of a decision will be communicated to the Association's membership team and, where appropriate, action will be considered.

Members are reminded that, at various key points throughout the administration of all cases, there will be the opportunity for Members to comment on evidence and the Ombudsman will always take such representations into account.

How much does the Dispute Resolution Service cost?

Using the Dispute Resolution Service costs £385 + VAT per case. Use of an Independent Expert for site survey is an additional cost, which may be required depending on the circumstances of the case.

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

No. Decisions remain strictly confidential between the parties involved.

How many customers win their case?

To review the Ombudsman's most recent set of statistics relating to case outcomes and average case times, please visit the Case Statistics page on the Dispute Resolution Ombudsman website or refer to the latest Annual Review [Annual Reviews - Dispute Resolution Ombudsman](#)

How is the Ombudsman independent?

Board of Directors

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

The Ombudsman Standards Board

To help preserve our independence and provide an invaluable set of checks and balances on our work, the Ombudsman Standards Board acts to regulate how we operate. All Board Members share our vision of inspiring customer confidence and raising industry standards and do so on a voluntary basis.

Governed by a set of byelaws, the Standards Board regularly reviews a cross section of our adjudications, to ensure they are both fair and reasonable. It also oversees our rules, practices, and procedures.

Our Staff

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

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

Yes. We are approved by the Chartered Trading Standards Institute (the Competent Authority) to provide our services under the Alternative Dispute Resolution for Customer Disputes (Competent Authorities and Information) Regulations 2015. You will see our services listed, here:

www.tradingstandards.uk/advice/ADRApprovedBodies.cfm

How is the Ombudsman funded?

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

Contact Us:

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