

Association of Residential Managing Agents (ARMA)

Independent Adjudication Service

Scheme Rules

(16 December 2021 edition)

These rules apply to application forms received by CEDR on or after 16 December 2021 and should be read in conjunction with any guidance documentation that can be found at www.cedr.com/consumer/arma.

1. General

- 1.1 The Association of Residential Managing Agents (ARMA) Independent Adjudication Service (“the Scheme”) is administered by Centre for Effective Dispute Resolution (“CEDR”). The Scheme provides an informal and independent way of adjudicating complaints made against Members or Associates of ARMA (“the Member”) by a Complainant by way of a non-binding adjudication process (“the Adjudication”).
- 1.2 A Complainant is:
 - 1.2.1 A third party directly connected to the subject matter of the complaint; or
 - 1.2.2 ARMA, in relation to an alleged failure by the Member to comply with the ARMA Guide to Audit or where ARMA alleges that the Member has brought ARMA into disrepute; or
 - 1.2.3 A member or associate of ARMA, in relation to a handover dispute with a Member that has been ongoing for three months or more.
- 1.3 The Adjudication will be undertaken by an independent adjudicator (“the Adjudicator”) appointed by CEDR from its Adjudication Panel (“the Panel”) that it maintains for these purposes.
- 1.4 Use of the Scheme is mandatory for Members where an eligible application has been made to the Scheme by a Complainant.
- 1.5 The Adjudicator appointed under these Scheme Rules (“the Scheme Rules”) will make a decision on the complaint by considering the information received from the

Complainant and from the Member. This decision will be either to make one or more recommendations that the ARMA Complaints Committee take action in relation to the Member or to make no recommendation. The recommendations the Adjudicator can make are limited to:

- 1.5.1 A letter of apology;
 - 1.5.2 Training to be undertaken by the Member;
 - 1.5.3 That the Member is suspended from ARMA for a specified period of time;
 - 1.5.4 That the Member is expelled from ARMA.
- 1.6 Any decision of the Adjudicator is non-binding. The ARMA Complaints Committee shall have the discretion to action any or none of the recommendations made by the Adjudicator.
- 1.7 The use of the Scheme is free of charge to Complainants and Members.
- 1.8 Applications to the Scheme will be accepted from Complainants or their nominated representatives. If a Complainant wishes to nominate a representative to act on their behalf, the Complainant must provide signed authority with their application to the Scheme confirming that they agree to the representative acting on their behalf.
- 1.9 Any decision made by the Adjudicator appointed under the Scheme Rules applies only to the specific complaint referred. Under no circumstances does a decision made by the Adjudicator set a precedent.

2. Scope of the Scheme

- 2.1 For Complainants defined under Rule 1.2.1 above, the Scheme can be used to adjudicate complaints made against a Member provided that all of the following conditions are satisfied:

2.1.1 The complaint made by the Complainant is that the Member has, either personally or through any of its employees, partners, representatives, agents, subsidiaries or any associated company, committed any breach of the ARMA Rules (“the ARMA Rules”). The ARMA Rules means one or more of any of the Articles, Bye-laws, Consumer Charter, Standards, Guide to Joining ARMA, RICS Code and any other rules of the Association applicable from time to time along with any and all other applicable regulations, standards, codes,

decisions, rulings, judgments, findings, penalties, conditions or orders of any nature.

- 2.1.2 The Complainant must complain formally to the Member and attempt to resolve their complaint in accordance with the ARMA Complaints Guidance;
- 2.1.3 Any and all appropriate independent cases and investigations in respect of their complaint, whether or not such cases or investigations have been initiated, must have been exhausted, including any ongoing cases and investigations by:
 - 2.1.3.1 the Ombudsman (The Property Ombudsman or Property Redress Scheme);
 - 2.1.3.2 the First-tier Tribunal (Property Chamber);
 - 2.1.3.3 the Court;
 - 2.1.3.4 the Police; and
 - 2.1.3.5 other authorities e.g.: (i) Health & Safety Executive; (ii) Environment Agency; (iii) Local Authorities (e.g. section 21 and 22 LTA compliance); (iv) Information Commissioner's Office; (v) Trading Standards; (vi) Financial Conduct Authority; (vii) Competition and Markets Authority (re. competition issues); or (viii) Local fire services.
- 2.1.4 The Complainant must have sent an application form to CEDR that they have been given by CEDR which meets the requirements under Rules 2.1 and 2.2, following ARMA's referral of the Complainant's details to CEDR.

2.2 For Complainants defined under Rule 1.2.1 above, the Scheme cannot be used to adjudicate a complaint that falls into one or more of the following categories:

- 2.2.1 Where the conditions set out at Rule 2.1 above are not satisfied at the time the Complainant applies to the Scheme;
- 2.2.2 Where the most recent alleged incident to which the complaint relates occurred more than 24 months prior to the date on which the Complainant referred the complaint to the Scheme as set out in Rule 2.1.4 above;
- 2.2.3 For a Member that has recently been granted membership or associate status by ARMA, the most recent alleged incident to which the complaint relates occurred more than 12 months prior to the date on which the Member was granted membership or associate status by ARMA;
- 2.2.4 Where the details of the complaint set out in the Complainant's application form materially differ from those details that were provided in the course of satisfying the conditions set out at Rule 2.1;

- 2.2.5 Complaints that are frivolous and/or vexatious;
 - 2.2.6 Where dealing with such a type of complaint would seriously impair the effective operation of CEDR.
- 2.3 For Complainants defined under Rule 1.2.2 above, the Scheme can be used to adjudicate complaints made against a Member provided that all of the following conditions are satisfied:
- 2.3.1 The complaint made by the Complainant is that the Member has, either personally or through any of its employees, partners, representatives, agents, subsidiaries or any associated company, failed to comply with the ARMA Guide to Audit or has brought ARMA into disrepute.
 - 2.3.2 The complaint made by the Complainant has been formally raised with the Member and has been ongoing and unresolved (this requirement does not apply where ARMA alleges that the Member has brought ARMA into disrepute).
 - 2.3.3 The Complainant must have sent an application form to CEDR which meets the requirements under Rules 2.3 and 2.4.
- 2.4 For Complainants defined under Rule 1.2.2 above, the Scheme cannot be used to adjudicate a complaint that falls into one or more of the following categories:
- 2.4.1 Where the conditions set out at Rule 2.3 above are not satisfied at the time the Complainant applies to the Scheme;
 - 2.4.2 Where the details of the complaint set out in the Complainant's application form materially differ from those details that were provided in the course of satisfying the conditions set out at Rule 2.3;
 - 2.4.3 Complaints that are frivolous and/or vexatious;
 - 2.4.4 Where dealing with such a type of complaint would seriously impair the effective operation of CEDR.
- 2.5 For Complainants defined under Rule 1.2.3 above, the Scheme can be used to adjudicate complaints made against a Member provided that all of the following conditions are satisfied:
- 2.5.1 The complaint made by the Complainant is that the Member has, either personally or through any of its employees, partners, representatives, agents, subsidiaries or any associated company, committed any breach of the ARMA Rules ("the ARMA Rules"). The ARMA Rules means one or more of any of the

Articles, Bye-laws, Consumer Charter, Standards, Guide to Joining ARMA, RICS Code and any other rules of the Association applicable from time to time along with any and all other applicable regulations, standards, codes, decisions, rulings, judgments, findings, penalties, conditions or orders of any nature.

- 2.5.2 The complaint made by the Complainant has been formally raised with the Member and has been ongoing and unresolved for three months or more.
 - 2.5.3 The Complainant must have sent an application form to CEDR that they have been given by CEDR which meets the requirements under Rules 2.5 and 2.6, following ARMA's referral of the Complainant's details to CEDR.
- 2.6 For Complainants defined under Rule 1.2.3 above, the Scheme cannot be used to adjudicate a complaint that falls into one or more of the following categories:
- 2.6.1 Where the conditions set out at Rule 2.5 above are not satisfied at the time the Complainant applies to the Scheme;
 - 2.6.2 Where the most recent alleged incident to which the complaint relates occurred more than 24 months prior to the date on which the Complainant referred the complaint to the Scheme as set out in Rule 2.5.3 above;
 - 2.6.3 Where the details of the complaint set out in the Complainant's application form materially differ from those details that were provided in the course of satisfying the conditions set out at Rule 2.3;
 - 2.6.4 Complaints that are frivolous and/or vexatious;
 - 2.6.5 Where dealing with such a type of complaint would seriously impair the effective operation of CEDR.
- 2.7 If the complaint falls into one or more of the categories identified at Rules 2.2, 2.4 or 2.6 above, the complaint will be withdrawn from the Scheme.

3. Applying to use the Scheme

- 3.1 To apply to use the Scheme, the Complainant must send to CEDR an application form which they have been provided with by CEDR, provided that their details have been referred to CEDR by ARMA. If the Complainant requires any special assistance with their application they can contact CEDR and reasonable adjustments will be made in line with the CEDR reasonable adjustments policy, which can be found on the CEDR website at www.cedr.com.

- 3.2 When submitting an application form, the Complainant must provide the following:
- 3.2.1 A description of the precise issues that form the nature of the complaint about the Member;
 - 3.2.2 A description of the precise conduct by the Member that the Complainant believes to be a breach of the ARMA Rules as set out at Rule 2.1.1 above;
 - 3.2.3 For Complainants defined under Rules 1.2.1, a copy of the decision or outcome from the appropriate body as set out in Rule 2.1.3 above;
 - 3.2.4 Any supporting documents on which the Complainant wishes to rely.
- 3.3 The Complainant is encouraged to clarify the complaint in as much detail as possible.

4. The adjudication procedure

4.1 The Application

- 4.1.1 When an application form meeting the requirements set out in Rule 2 above is received by CEDR, CEDR will send to the Complainant confirmation of receipt along with a case reference number. Both the Complainant and the Member must quote this case reference number in all correspondence with CEDR regarding the case.
- 4.1.2 CEDR will make an initial assessment within five working days as to whether or not the complaint falls within the scope of the Scheme. This assessment will be made by reference to Rule 2 above.
- 4.1.3 If CEDR considers the application to be valid, it will notify the Member by sending an electronic copy of the Complainant's application form, the case reference number and any supporting documents ("the notification").
- 4.1.4 Once the notification is deemed to have been received by the Member, it has 15 working days in which to either:
 - 4.1.4.1 Object to CEDR dealing with the complaint if it considers the complaint to be entirely outside the scope of the Scheme; or
 - 4.1.4.2 Send CEDR its written response to the Complainant's complaint (CEDR may, at its own discretion, grant the Member an extension of the deadline for providing a response).

4.2 Objections to eligibility

- 4.2.1 Within the timescale at Rule 4.1.4 above, the Member can object to CEDR dealing with the complaint if it considers the complaint to be outside the scope of the Scheme.
- 4.2.2 In making an objection, the Member must contact CEDR and specify one or more reasons under Rules 2.2, 2.4 or 2.6 above as to why the complaint is outside the scope of the Scheme.
- 4.2.3 CEDR will examine the Member's objection and decide whether or not the objection is upheld. This decision will be communicated to the parties within five working days of the objection being received by CEDR.
- 4.2.4 When an objection is made by the Member, the timescale at Rule 4.1.4 will be put on hold until the outcome of the objection is communicated to the parties by CEDR.
- 4.2.5 If the Member's objection is not upheld by CEDR, the case will remain active. The Adjudicator who is subsequently appointed to adjudicate the complaint will be provided with all objection correspondence.
- 4.2.6 If the Member's objection is upheld, CEDR will write to the Complainant to advise them of this and the reasons given for the objection. The Complainant will then have a period of 10 working days to contact CEDR and provide evidence as to why the case is valid. Upon receipt of the Complainant's response, CEDR will decide whether or not to reinstate the case within five working days.
- 4.2.7 In the event that the Complainant responds to CEDR within 10 working days after receipt of correspondence from CEDR regarding the objection being upheld, and CEDR decides that the case falls within the scope of the Scheme, the case will be reinstated and the Member will be given 15 working days to make a further objection or to file a response.
- 4.2.8 If the Complainant makes no contact with CEDR within 10 working days of the Member's objection being upheld, or CEDR does not consider that the case falls within the scope of the Scheme following receipt of the Complainant's response, the case will be withdrawn from the Scheme.

4.3 The Response

- 4.3.1 When CEDR receives the Member's response, a copy of it will be sent to the Complainant.
- 4.3.2 If the Member does not submit a response to CEDR within the time allowed, the Adjudicator will have the discretion to proceed to make a decision

considering only the information provided by the Complainant.

- 4.3.3 The Complainant has a period of five working days from the date on which the Member's response is sent to them to provide any comments that they see fit. The Complainant is not required to submit comments on the Member's response. Any comments that are submitted must be restricted only to points raised in the Member's response and must not introduce any new matters. Any new matters submitted by the Complainant at this stage will be disregarded by the Adjudicator.
- 4.3.4 If the Complainant makes any comments on the Member's response, a copy of those comments will be sent to the Member for their information only.
- 4.3.5 Any further comments that are received from the Complainant or the Member beyond the timescale above will be sent to the Adjudicator, who has the sole discretion as to whether or not to take them into account. If the Adjudicator agrees to take such further comments into account, a copy of those comments will be shared with the other party to the case for their information only.

4.4 The Decision

- 4.4.1 The Adjudicator appointed under these Scheme Rules will make a decision by considering the submissions and evidence received from the Complainant and the Member. CEDR aims for decisions to be issued within 20 working days of receipt of the parties' submissions and evidence in accordance with the above Scheme Rules. In exceptional circumstances this period may be extended.
- 4.4.2 The Adjudicator's decision will be set out in writing and will be sent to the ARMA Complaints Committee by CEDR. The ARMA Complaints Committee will consider the Adjudicator's decision and will decide whether or not to action any of the recommendation(s) made ("the Outcome"). The ARMA Complaints Committee will then provide a summary of the Outcome to CEDR, which will be communicated to the parties.
- 4.4.3 The implementation of any recommendation(s) made by the Adjudicator in the decision will be at the sole discretion of the ARMA Complaints Committee.
- 4.4.4 The Outcome cannot be reviewed or appealed under any circumstances. CEDR is unable to enforce compliance with the Outcome. CEDR is also unable to apply further sanctions to the Member for failing to comply with the Outcome. The ARMA Complaints Committee retains sole discretion to determine whether or not the Outcome has been complied with by the Member.

5. Powers of the Adjudicator

- 5.1 The Adjudicator will be fair and unbiased at all times, and will act as quickly and efficiently as practicable.
- 5.2 The Adjudicator has the power to do any of the following:
 - 5.2.1 Change any of the time limits set out in these Scheme Rules;
 - 5.2.2 Request further evidence or documents from the Complainant or the Member, and set time limits in which the Complainant and the Member must provide such evidence or documents;
 - 5.2.3 Proceed with the Adjudication if either the Complainant or the Member does not keep to these Scheme Rules or any instruction or direction made pursuant to these Scheme Rules;
 - 5.2.4 Consult any relevant evidence not presented by the parties (but the Adjudicator must tell the Complainant and the Member about such evidence and allow them to provide comments);
 - 5.2.5 Receive and take account of any evidence the Adjudicator thinks is relevant;
 - 5.2.6 End the Adjudication if, in the Adjudicator's opinion, the entirety of the complaint falls outside the scope of the Scheme (there is no appeal if the Adjudicator decides to end the Adjudication).
- 5.3 If the Adjudicator finds that the Member has breached the ARMA Rules, they can recommend one or more of the following:
 - 5.3.1 A letter of apology;
 - 5.3.2 Training to be undertaken by the Member;
 - 5.3.3 That the Member is suspended from ARMA for a specified period of time;
 - 5.3.4 That the Member is expelled from ARMA.

6. Costs

- 6.1 The use of the Scheme is free of charge to Complainants and Members.
- 6.2 Neither the Complainant nor the Member is obliged to use legal representation, although either party is free to do so if they wish.
- 6.3 The Complainant and the Member must pay their own costs of preparing their cases. By using the Scheme, each party agrees not to take any legal action against the other

to recover such costs.

7. Confidentiality

7.1 No party involved in the Adjudication will give details of the Adjudication or the Outcome to any person or organisation not directly involved in the Adjudication.

7.2 By using the Scheme, the parties agree that CEDR may gather, retain and publish statistics and other information in relation to cases.

7.3 The General Data Protection Regulation (GDPR) applies to the Scheme, and all data submitted to CEDR with regard to cases may be shared with ARMA, including all personal data.

7.4 By using the Scheme, the Complainant gives consent for any relevant personal data held by the Member to be shared with CEDR and the Adjudicator for the purposes of the Adjudication.

8. Other rules

8.1 CEDR will appoint a substitute Adjudicator from the Panel if the Adjudicator originally appointed is unable to deal with the complaint for any reason. CEDR will inform the parties if such an appointment is made.

8.2 Neither CEDR nor the Adjudicator will be obliged to enter into correspondence relating to any decision or Outcome.

8.3 If the Complainant or the Member has a complaint about the quality of service provided in the course of the administration of a case, the complaint should be made through CEDR's published complaints procedure, copies of which are available on the CEDR website. The complaints procedure cannot be used to challenge the Outcome, the decision process adopted by the Adjudicator, or the content of these Scheme Rules.

8.4 The Scheme, including these Scheme Rules, may be updated from time to time. Complaints will be adjudicated according to the Scheme Rules in force at the time the Complainant applies to use the Scheme.