

Independent Adjudication for Consumers

Service Rules

Introduction

These Service Rules (“the Rules”) apply to applications received by Centre for Effective Dispute Resolution (CEDR) on or after 1 July 2022 and should be read in conjunction with CEDR’s Adjudication Guidance for Customers, which can be found at www.cedr.com/consumer.

If you require this document in an alternative format, please contact us for further details.

1. General

- 1.1. The Independent Adjudication Scheme for Consumers (“the Scheme”) provides an informal and independent way of adjudicating disputes between The Benenden Healthcare Society Limited and its subsidiary Benenden Wellbeing Limited (“the company”) and their members/customers/users (“the customer”).
- 1.2. The Scheme is provided free of charge to customers.
- 1.3. Decisions under the Scheme are taken by independent adjudicators appointed by CEDR to decide on the outcome of disputes dealt with under the Scheme. Decisions by adjudicators on eligible cases are only binding on the customer and the company when the customer accepts the decision. Acceptance by a customer must take place within 20 working days of the decision being issued for the decision to become binding.
- 1.4. Applications to the Scheme will be accepted from customers or their nominated representatives.
- 1.5. A ‘customer’ is an individual who pays membership contributions to the company to access the benefits of membership and/or is eligible to use the ‘Benenden Healthcare Lite’ product. The ‘Benenden Healthcare Lite’ product is a low cost corporate version of the Benenden Health membership offered by Benenden Wellbeing Limited.
- 1.6. If a customer wishes to nominate a representative to act on their behalf, the customer must provide signed authority confirming that they agree to the representative acting on their behalf.
- 1.7. With the exception of disputes that relate to the ‘Benenden Healthcare Lite’ product, a customer can only use the Scheme if their dispute falls outside the jurisdiction of the Financial Ombudsman Service (“the FOS”).

- 1.8. An adjudicator appointed under these Rules will make a decision on the dispute by considering the information received from the customer and the company.
- 1.9. Any decision made by an adjudicator appointed under these Rules applies only to the specific dispute referred. Under no circumstances do decisions made by adjudicators set precedents.
- 1.10. The customer and the company agree that any documents prepared or submitted, including the decision of the adjudicator, in connection with an application to the Scheme shall remain confidential between the company and the customer and shall only be used for the purposes of the Scheme.

2. Scope of the Scheme

- 2.1. The Scheme can be used to settle disputes between a customer and the company about products or services provided by the company, including whether the company's discretion has been properly exercised.
- 2.2. The Scheme cannot be used to settle disputes which fall into one or more of the following categories:
 - 2.2.1. Claims which are brought by someone who does not fall within the definition of a 'customer' under Rule 1.5 above;
 - 2.2.2. Claims which are made against a company that does not subscribe to the Scheme;
 - 2.2.3. Cases where the customer has not complained to the company at all or has not first allowed the company eight weeks to respond to their complaint;
 - 2.2.4. Cases where the customer has not been informed by the FOS that the dispute is outside the jurisdiction of the FOS (this does not apply to disputes that relate to the 'Benenden Healthcare Lite' product);
 - 2.2.5. Cases where the customer's application to CEDR has been submitted more than six months from the date on which the FOS informed the customer that the dispute falls outside the jurisdiction of the FOS (or, for disputes that relate to the 'Benenden Healthcare Lite' product, where the customer's application to CEDR has been submitted more than six months from the date on which the company has given notice to the customer that it is unable to resolve the complaint) (CEDR can extend this period if both the customer and the company agree);
 - 2.2.6. Claims which contain no aspect relating to the issues set out at Rule 2.1 above;
 - 2.2.7. Claims relating to the conduct of medical and care professionals, the quality of clinical care, personal injury, and other such products or services provided directly to the customer by a third party;
 - 2.2.8. Claims made for a total sum exceeding £10,000.00 (inclusive of VAT (if any)) (this sum includes any claims for compensation, refunds, credits and/or waivers);
 - 2.2.9. A dispute which, in the opinion of CEDR, is more appropriately dealt with by a court, regulatory body, or other formal process;
 - 2.2.10. A dispute that is considered by CEDR to be frivolous and/or vexatious;

- 2.2.11. A dispute that is the subject of an existing or previous valid application made under the Scheme;
- 2.2.12. A dispute which has been or is the subject of court proceedings or an alternative independent procedure for the determination of disputes (unless such proceedings or alternative procedure have been abandoned, stayed or suspended and both parties agree to use the Scheme).
- 2.2.13. A dispute which has been considered, determined or decided by the FOS.
- 2.3. If the dispute is about something that is not covered by these Rules, the company can nevertheless expressly agree to use the Scheme, but it does not have to.
- 2.4. Putting a dispute through the Scheme does not remove the customer's duty to pay the company any other amounts which are due and which are not disputed.

3. Applying to use the Scheme

- 3.1. To apply to use the Scheme, a customer must send to CEDR a completed application form. Application forms are available from CEDR on request. If a customer 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.
- 3.2. On the application form, the customer must request at least one of the following remedies from the company:
 - 3.2.1. A product or service;
 - 3.2.2. Something to be done about a bill or bills;
 - 3.2.3. Some practical action to be taken;
 - 3.2.4. A payment which must total no more than £10,000.00 (including VAT). This sum includes any claims for compensation, refunds, credits and/or waivers.
- 3.3. The customer is encouraged to clarify the remedies sought in as much detail as possible, but a failure to do this will not render an application invalid. If, in the opinion of CEDR, any aspect of a customer's application is unclear, CEDR will make one attempt to contact the customer to obtain clarification. This will not affect the case process or the associated timescales.
- 3.4. The claim should include details of:
 - 3.4.1. The service provided by the company which the dispute is about;
 - 3.4.2. The precise issues which are in dispute;
 - 3.4.3. The steps already taken to attempt to reach a resolution with the company;
 - 3.4.4. The reasons for requesting the remedy or remedies sought; and
 - 3.4.5. The reasons for the amount of any compensation claimed.
- 3.5. The customer should supply any essential supporting documents with their application.

4. The adjudication procedure

4.1. The Claim

- 4.1.1. When an application form is received along with any supporting documents, CEDR will make an initial assessment within 15 working days as to whether or not the dispute falls within the scope of the Scheme. This assessment will be made by reference to Rules 2.1 and 2.2 above.
- 4.1.2. When an application is processed by CEDR, a case reference number will be allocated and communicated to the parties in correspondence from CEDR. Both the customer and the company must quote this case reference number in all subsequent correspondence with CEDR regarding the case.
- 4.1.3. If CEDR considers the application to be valid, it will notify the company by sending an electronic copy of the customer's application form and any supporting documents to the company ("the notification").
- 4.1.4. If CEDR sends the notification to the company before 4.00pm, the company is deemed to have received it on that day. If CEDR sends the notification on or after 4.00pm, the company is deemed to have received it on the following working day.
- 4.1.5. Once the notification is deemed to have been received by the company, the company has 15 working days in which to either:
 - 4.1.5.1. Confirm to CEDR that it is prepared to give the customer all of the remedies requested on the CEDR application form or that it has agreed an alternative settlement by negotiation directly with the customer (this period cannot be extended); or
 - 4.1.5.2. Object to CEDR dealing with the application if it considers the dispute to be entirely outside the scope of the Scheme; or
 - 4.1.5.3. Send CEDR its written defence to the customer's claim (CEDR may, at its own discretion, grant the company an extension of the deadline for providing a defence).
- 4.1.6. If, before the expiry of the timescale at Rule 4.1.5 above, the customer contacts CEDR to add further evidence or submissions to their application, the company will be sent the extra documentation and the timescale at Rule 4.1.5 for the company to reach a settlement or file a defence will be restarted.

4.2. Settlement

- 4.2.1. If the company agrees to give the customer all of the remedies they have asked for on their CEDR application form (i.e. a settlement in full), the company must notify CEDR of this within the timescale set out at Rule 4.1.5 above. When CEDR receives notification from the company that a settlement in full has been reached, CEDR will close the case. The company must provide the customer with all of the remedies requested on the CEDR application form within 20 working days of CEDR being notified of the settlement in full, unless an alternative timescale has been agreed between the parties.
- 4.2.2. If the company reaches any other resolution with the customer to settle the dispute (i.e. a negotiated settlement), the company must notify CEDR of this within the timescale set

out at Rule 4.1.5 above. At the same time, the company must provide CEDR with evidence of the offer made to the customer and evidence confirming that the customer has accepted that offer in exchange for the closure of their CEDR case. When CEDR receives evidence of the negotiated settlement from the company, CEDR will close the case. If evidence of the negotiated settlement is not provided by the company, the case will remain active. The company must provide the customer with the remedies agreed as part of the negotiated settlement within 20 working days of CEDR being notified of the negotiated settlement unless an alternative timescale has been agreed between the parties.

4.2.3. If the company has not provided the customer with all of the remedies under the settlement in full or negotiated settlement within the relevant timescale, the customer must advise CEDR within 20 working days of the expiry of the relevant timescale (or the case will remain closed). At this time, the customer must advise CEDR which of the remedies have not been provided. Upon the customer advising CEDR that one or more remedies remain outstanding, CEDR will re-open the case and will give the company five working days to either provide a defence to the customer's claim or to provide evidence showing that the remedies required under the settlement were provided within the relevant timescale. If the company provides evidence showing that the remedies required under the settlement were provided to the customer within the relevant timescale, the case will be withdrawn from the Scheme. If the company does not provide evidence showing that the remedies required under the settlement were provided to the customer within the relevant timescale, or the adjudicator does not accept such evidence, the case will proceed in line with Rule 4.4 below.

4.3. Objections to eligibility

4.3.1. Within the timescale at Rule 4.1.5 above, the company can object to CEDR dealing with the application if it considers the dispute to be entirely outside the scope of the Scheme.

4.3.2. In making an objection, the company must contact CEDR and specify one or more reasons under Rule 2.2 above as to why the application is outside the scope of the Scheme. The evidential burden rests with the company to prove why the application falls outside the scope of the Scheme.

4.3.3. A CEDR adjudicator will examine the company's objection and decide whether or not the objection is upheld. This decision will be communicated to the company within two working days of the objection being received by CEDR.

4.3.4. If the company's objection is not upheld by the adjudicator, the case will remain active, and an additional two working days will be added to the timeframe under Rule 4.1.5 for the company to file a defence or settle the dispute. This time extension can be applied only once per case, and no time extensions will be given to any subsequent unsuccessful objections made by the company. If an adjudicator is subsequently appointed to determine the dispute, all objection correspondence will be forwarded to that adjudicator to be taken into account when reaching a final decision in the case.

- 4.3.5. If the company's objection is upheld by the adjudicator, CEDR will write to the customer to advise them of this and the reasons given for the objection. The customer will then have a period of five working days to contact CEDR and provide reasons why the case is valid. Upon receipt of the customer's response, a CEDR adjudicator will decide whether or not to reinstate the case within two working days. The evidential burden at this stage rests with the customer to prove why the application falls within the scope of the Scheme.
- 4.3.6. In the event that the customer responds to CEDR within five working days after receipt of correspondence from CEDR regarding the objection being upheld, and the adjudicator decides that the case falls within the scope of the Scheme, the case will be reinstated and the company will be given 10 working days to reach a settlement with the customer or to file a defence with CEDR.
- 4.3.7. If the customer makes no contact with CEDR within five working days of the company's objection being upheld, or the adjudicator does not consider that the case falls within the scope of the Scheme following receipt of the customer's response, the case will be withdrawn from the Scheme.
- 4.4. The Defence
 - 4.4.1. When CEDR receives the company's defence, a copy of it will be sent to the customer.
 - 4.4.2. Upon receipt of the defence, CEDR will formally appoint an adjudicator to the case.
 - 4.4.3. If the company does not submit a defence 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 customer.
 - 4.4.4. The customer has a period of 10 working days from the date on which the company's defence is sent to them to provide any comments on the defence that they see fit. The customer is not required to submit comments on the company's defence. Any comments that are submitted must be restricted only to points raised in the company's defence and must not introduce any new matters or any new evidence. Any new matters or new evidence submitted by the customer at this stage will be disregarded by the adjudicator.
 - 4.4.5. If the customer makes any comments on the company's response, CEDR will send a copy of those comments to the company for their information only.
 - 4.4.6. Any further comments that are received from the customer or the company 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 dispute for their information only.
- 4.5. The Decision
 - 4.5.1. An adjudicator appointed under these Rules will make a decision by considering the submissions and evidence received from the customer and the company. CEDR aims for decisions to be issued within 20 working days of the adjudicator being assigned to the case.

- 4.5.2. The adjudicator's decision will be set out in writing and will include full reasons for the decision. The adjudicator will send a copy of the decision to CEDR when complete.
- 4.5.3. Once CEDR receives a decision from an adjudicator, it will send copies to both the customer and the company simultaneously.
- 4.5.4. The adjudicator's decision will only become binding on the customer and the company if the customer advises CEDR that they accept the decision in full. The customer has 20 working days to notify CEDR of their acceptance.
- 4.5.5. If, during the time period specified at Rule 4.5.4 above, the customer advises CEDR that they reject the decision, or that they do not accept the decision in full, or if the customer fails to contact CEDR during the time period, the adjudicator's decision will not be binding on either party. The decision cannot be accepted at a later date.
- 4.5.6. Adjudicators' decisions are final. They cannot be reviewed or appealed under any circumstances.
- 4.6. Compliance with the Decision
 - 4.6.1. If the adjudicator's decision directs the company to take an action in relation to the customer, and the customer accepts the decision, the company must complete the necessary action(s) within 20 working days from the date on which CEDR notifies the company of the customer's acceptance of the decision.
 - 4.6.2. If the company is for any reason unable to complete the necessary action(s) within the timescale at Rule 4.6.1 above, the company must advise the customer and CEDR why that is before the above timescale expires. At the same time, the company must specify a substitute date by which the necessary action(s) will be completed.
 - 4.6.3. If the customer informs CEDR that the company has not completed the required actions within the timescale set out at Rule 4.6.1 or any substitute timescale advised by the company under Rule 4.6.2, CEDR will contact the company to request compliance with the decision. In the event that the company does not respond or fails to comply with the decision within five working days, the matter will be escalated to a senior member of staff at the company.
 - 4.6.4. In the event that the company's failure to respond and/or failure to comply persists, appropriate action can be taken by CEDR which may include suspension or termination of CEDR membership.
 - 4.6.5. CEDR is unable to enforce compliance with decisions, nor is CEDR able to apply penalties or sanctions to the company for failing to comply with an adjudicator's decision.

5. Powers of the adjudicator

- 5.1. The adjudicator will be fair and unbiased at all times and will make a decision that is in line with the relevant law, any relevant codes of practice, and contracts between the company and the customer. The adjudicator will act quickly and efficiently.
- 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 Rules;

- 5.2.2. Request further evidence or documents from the customer or the company, and set time limits in which the customer and the company must provide such evidence or documents;
- 5.2.3. Proceed with the adjudication if either the customer or the company does not keep to these Rules or any instruction or direction made pursuant to these Rules;
- 5.2.4. Consult any relevant evidence not presented by the parties (but the adjudicator must tell the customer and the company about such evidence and allow them to provide comments);
- 5.2.5. Receive and take account of any evidence the adjudicator thinks is relevant and reasonable to do so in the circumstances;
- 5.2.6. End the adjudication if, in the adjudicator's opinion, the entirety of the claim falls outside the scope of the Scheme (there is no appeal if the adjudicator decides to end the adjudication);
- 5.2.7. End the adjudication if the customer and the company settle their dispute before a decision is made;
- 5.2.8. Determine whether or not the company has complied with their decision, in the event that a dispute arises between the parties regarding compliance.
- 5.3. If the adjudicator finds that the customer's claim succeeds in full or in part, he or she can direct the company to:
 - 5.3.1. Provide the customer with a product or service;
 - 5.3.2. Take some practical action;
 - 5.3.3. Do something about one or more of the customer's bills;
 - 5.3.4. Make a payment to the customer, the total value of which shall not exceed £10,000.00 (including VAT);
 - 5.3.5. Subject to the limit set out in Rule 5.3.5 above, the adjudicator may also award interest at a rate equivalent to the rate applicable under section 69 of the County Court Act 1984.
- 5.4. In exceptional circumstances, the adjudicator may award more than has been claimed by the customer.
- 5.5. If the adjudicator finds that the customer's claim does not succeed, the company will not be directed to take any action.

6. Costs

- 6.1. The use of CEDR adjudication is free of charge to customers. The company is therefore responsible for paying CEDR its fees. The company cannot take legal action against a customer to recover fees paid to CEDR.
- 6.2. The customer and the company 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. Data protection

- 7.1. By using the Scheme, the parties agree that CEDR may gather, retain and publish statistics and other information in relation to cases whilst preserving the anonymity of the parties.
- 7.2. The General Data Protection Regulation (GDPR) applies to the Scheme, and all data submitted to CEDR with regard to cases may be shared with the company, including all personal data.
- 7.3. By using the Scheme, the customer gives consent for any relevant personal data held by the company 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 if the adjudicator originally appointed is unable to deal with the dispute for any reason. CEDR will inform the parties if such an appointment is made.
- 8.2. With the exception of amending a decision following any minor error, neither CEDR nor the adjudicator will enter into correspondence relating to any decision.
- 8.3. If the customer or company has a complaint about the quality of service provided in the course of the administration of a CEDR case, the complaint should be made through the published complaints procedure, copies of which are available from the CEDR website. The complaints procedure cannot be used to challenge the content or outcome of an adjudicator's decision, the decision process adopted by an adjudicator, or the content of these Rules.
- 8.4. If either the customer or the company requires their original documentation to be returned to them, they must make such a request within 20 working days of the date of the adjudicator's decision being sent to them. If no such request is made, CEDR will dispose of the documents securely.
- 8.5. Any reference in these Rules to working days by definition excludes Saturdays, Sundays and bank/public holidays celebrated in England and Wales.
- 8.6. The Scheme, including these Rules, may be updated from time to time. Disputes will be settled according to the Rules in force at the time the customer applies to use the Scheme.

July 2022

Time Frame Breakdown (working days)

1. Process time frame below indicates the maximum period if objection process is used but the case proceeds to full adjudication (the longest process).
2. Most cases are concluded within 60 days (8 to 9 weeks).

