

Terms of Reference

Individuals and Companies



Section A: Introduction to the Cosmetic Redress Scheme

1. Introduction

The Cosmetic Redress Scheme (“CRS”) is a consumer redress scheme authorised by the Chartered Trading Standards Institute under the ADR Regulations 2015 to offer an escalated complaint process to consumers of Members of the CRS. The redress is offered in relation to complaints caused by the acts or omissions of the Member.

The CRS is a trading name of HF Resolution Ltd. The CRS has three distinct parts to its structure:

- i. Executive Board
- ii. Office of Ombudsman and Head of Redress
- iii. Advisory Panel

These Terms of Reference set out how the CRS works, the basis upon which Members join and the approach of the CRS to resolving complaints.

1. Purpose

The main purposes of the CRS are to:

- a. allow cosmetic professionals to comply with their legal responsibility to signpost to an approved consumer redress scheme and also to add value to their business;
- b. resolve or settle unresolved complaints made, relating to acts or omissions of a Member after the Complainant has already exhausted the Member’s internal complaints procedure;
- c. where appropriate, make an award as a result of any financial loss, or unnecessary aggravation, distress and/or inconvenience caused by the Member;
- d. actively assist in and contribute to raising standards in the industry by highlighting best practice and promoting it, and by identifying bad practice and helping to eliminate it;
- e. decide upon complaints on the basis of what the CRS believes is fair and reasonable in each case. The CRS complaints service is an alternative and more informal method of resolution than using the courts.

The CRS is not a regulator and does not have the authority to take regulatory or legal action against a Member.

3. Accountability

The Head of Redress is responsible for the actions and decision making of the CRS (from Case Assessors, Case Officers and Ombudsmen). The Head of Redress is accountable to the CRS Executive Board (“the Board”) but is not a member of the Board. The Head of Redress is independent and impartial from the executive responsibilities of running the CRS.

The Cosmetic Redress Scheme also has an Advisory Panel (“the Panel”). The Panel both advises and scrutinises the running of the CRS. The Panel includes representatives from the cosmetic industry, including consumer representation and has an independent Chair. The Head of Redress will also sit on the Panel.

4. The Head of Redress

The Head of Redress is responsible for the decision making of the CRS amongst other responsibilities including representing the CRS to the industry.

When the Head of Redress makes any decisions on complaints he does so as an Ombudsman. The Head of Redress has the power to ratify a decision of a deputy Ombudsman.

The Head of Redress will use the principles and practices in these Terms of Reference as the broad basis for assessing any offer of redress made to the Complainant by a Member.

The Head of Redress will consider any terms of business agreed by the parties, all relevant statutory provisions related to the complaint and where appropriate a Code of Practice (“CoP”) the Member has agreed to abide by.

In making a decision, the Head of Redress will:

- a. proceed fairly and in accordance with the principles of natural justice;
- b. make reasoned decisions in accordance with what is fair and reasonable in all the circumstances, having regard to principles of law, good industry practice, equitable conduct and good administration;
- c. make his decision based on any relevant CoP, terms and conditions agreed by the parties, the law (including consumer law) and also what is fair, just and equitable in the circumstances of the specific case in question;
- d. ensure that the burden of proof for any decision made will be on the ‘balance of probabilities’;
- e. ensure that no one decision will set a precedent for another decision although the Head of Redress will follow a consistent approach to issues;
- f. have the power to request the parties attend mediation if he feels that is the best way to resolve the complaint.

Section B: Membership

5. Membership requirements

Members of the CRS are required to:

- a. agree to abide by these Terms of Reference including the membership obligations set out in the relevant Appendix;
- b. complete and submit/sign an application of membership and pay all relevant subscriptions fees;
- c. disclose all information requested for membership. In the event of non-disclosure or misrepresentation the CRS reserves the right to terminate the membership;
- d. pay all joining, renewal, complaint and penalty fees in the timescale as directed by the CRS;
- e. provide a copy of their internal complaints procedure to all consumers (if they have one);
- f. provide a copy of their internal complaints procedure to all consumers - Members are expected to use the CRS model complaints procedure if they do not have one;
- g. display a CRS window sticker in all offices (if applicable);
- h. display the CRS logo and link on their website;
- i. comply and keep up to date with all relevant legislation;
- j. keep all contact details up to date and inform the CRS promptly of any changes;
- k. respond to all CRS communications as required.

6. Membership Options

The CRS has two membership options:

- **Option 1 - Individual Membership**

Annual fee for individual practitioners or service providers. Those who are Members of organisations listed in Appendix 1 or have a current Hamilton Fraser Insurance policy are entitled to a lower subscription fee.

- **Option 2 - Company Membership**

Annual fee for companies who provide cosmetic services operating out of a recognised location. The subscription fee is based on number of practitioners per location and the number of locations the company operates out of.

All Members will have the option of subscribing to a 24/7 legal helpline for a small additional cost.

7. Membership subscription

- a. Whichever Membership subscription the Member chooses will cover all the cosmetic services the Member provides.
- b. The CRS operates an auto-renewal process including payment from the Member's recent debit or credit card. This process can be de-activated by the Member.
- c. Any complaint fees due may be taken automatically from the Member's registered debit or credit card.
- d. Company Members - other branches:
 - i. The Company Member must register and pay for all actively trading branches (other locations) associated with the company with the CRS.
 - ii. The Head Office and all branches must be on the same Membership model.
 - iii. If the Member informs us that they have opened a new branch during their subscription period then we will charge a pro rata fee to cover the rest of the subscription period.
 - iv. If we discover that the Member has a branch that is not registered with us then we will investigate why the branch was not registered. Generally we will invoice for the discovered branch from the beginning of the Member's subscription period. Failure by the Member to pay the invoice entitles us to cancel the Member's membership.

8. Membership cancellation/expiry

If a Member opts to cancel their membership they will need to put the request in writing to info@cosmeticredress.co.uk together with the cancellation reasons.

No refund will be due to the Member if they cancel their membership within the subscription period or if the CRS is required to cancel the Member's membership.

The CRS may be required to cancel a Member's membership due to their breach of these Terms of Reference, not co-operating with the complaint process or complying with a decision or if the Member acts in a way which the CRS Compliance Officer reasonably believes brings the CRS into disrepute. Any recommendation by the Compliance Officer to cancel a Member's membership for these reasons will need to be ratified by the Head of Redress and MD of HF Resolution Ltd. Full reasons will be provided to the Member.

On membership cancellation or expiry, the CRS may be required to inform any professional association the Member is associated with.

Section C: Complaints against Members

9. Grounds for Complaint

The grounds of any complaint must be in relation to the act or omission of the Member, and fall under the following criteria:

- a. a breach of the Member's obligations under the law;
- b. where legal rights have been impinged or breached;
- c. where a Member has not acted in accordance with a Code of Practice it has signed up to, or any internal rules, procedures or statements of practice;
- d. unfair treatment by the Member; including, but not limited to:
 - i. poor or incompetent service
 - ii. rudeness or discourtesy
 - iii. not explaining matters
 - iv. not administering a transaction as efficiently as would be expected
 - v. avoidable delays
- e. the complaint cannot relate to any of the following:
 - i. errors or mistakes carried out in the treatment including dissatisfaction with the results;
 - ii. damage or injury suffered while undergoing or recovering from the treatment;
 - iii. medical side effects from the treatment;
 - iv. any medical or criminal negligence;
 - v. any criminal activity such as fraud or theft;
 - vi. matters that have a more appropriate resolution method such as through insurance, disciplinary committee or the courts.

10. General Conditions for Acceptance of Complaint

The CRS shall only consider, or continue to consider a complaint if it is satisfied that:

- a. the complaint is made against a Member of the CRS;
- b. the Complainant has sent a formal written complaint to the Member and tried to resolve the matter with them;
- c. the Complainant has received a final response from the Member but remains dissatisfied with the outcome or the conditions of the response including any full and final settlement offered;
- d. the Complainant has waited 8 (eight) weeks for a response to their written complaint, but the Member has not responded;
- e. the Complainant has submitted a complaint to the CRS either online or using the complaint form;
- f. the Complainant has grounds for complaint as specified in section 9 above;
- g. the complaint is raised with the CRS within 12 months of the last correspondence received from the Member in relation to the complaint and within 12 months of the original written formal complaint being raised with our Member;
- h. The complaint is within the remit of the CRS and the Member either agrees to resolve the Complaint using the CRS process or the Member is required to under the terms of a professional association membership.

11. Non Acceptance of a Complaint

The CRS reserves the right not to investigate a complaint (or any part of a complaint), or shall discontinue the investigation of a complaint (or any part), if:

- a. a circumstance in paragraph 10 has not occurred;
- b. the amount claimed is in excess of £25,000;
- c. in the CRS's opinion the complaint is considered to be unsupported, frivolous or vexatious;
- d. the complaint relates to alleged criminal activity;
- e. the resolution to the complaint would be covered by appropriate insurances;
- f. the CRS deems that it is more appropriate for the complaint to be dealt with by a Court, Tribunal or another independent complaints, conciliation or arbitration procedure such as the General Medical Council;
- g. legal proceedings have been issued or the complaint is already being considered or has been considered by a Court, Tribunal or another independent complaints, conciliation or arbitration procedure;
- h. in the CRS's opinion the complaint does not have a reasonable prospect of success. The CRS will provide the reasons if relying on this clause;
- i. the Complainant has not fulfilled their obligations under a contract or agreement such as paying fees or attending a scheduled appointment;
- j. the Complainant fails to respond to any reasonable request from the CRS within the timescale provided;
- k. the CRS deems that any offer provided by our Member is a suitable resolution to the matter and would not be bettered by the Head of Redress. In this circumstance we will inform the Complainant that the offer should be accepted or rejected but by rejecting the offer the matter will be closed by the CRS.

12. The Procedure for Resolution of Complaints

On receipt of a complaint the CRS will:

- a. check that the complaint meets the CRS complaints acceptance criteria as set out in paragraph 9;
- b. if necessary, request further information and evidence from the Complainant which is required in order to proceed. The Complainant has 20 working days to provide this information to the CRS, failure to provide this information may result in the discontinuance of the complaint;
- c. notify the Member of the complaint and give the Member 10 working days to resolve the complaint directly with the Complainant.

If a mutual agreement is made within the 10 working days the CRS will request confirmation that the Complainant is satisfied with the resolution and the case can be closed.

If the matter is not resolved within the first 10 working days then the matter becomes a formal Complaint and the Case Assessor will:

- a. provide the Member with a further 10 working days to submit their rebuttal evidence to the CRS;
- b. upon receipt of the rebuttal, have 15 working days to review the evidence submitted by both parties and to either facilitate an early resolution or determine whether the complaint has any grounds to continue with the CRS.
- c. It is at the CRS's discretion to provide some further time if in the reasonable opinion of the Case Assessor this will assist the parties to reach a resolution.

If both parties agree to an early resolution through the CRS process then they do so in full and final settlement of the complaint and this becomes the CRS's final decision. The resolution case fee becomes payable by the Member at this point.

If the parties have not reached a resolution with the assistance of the Case Assessor, the complaint will be escalated to either the Head of Redress and Ombudsman office or to formal mediation.

The Member will be required to pay the full decision fee as advertised and the CRS will invoice the Member for payment which must be paid within 14 days from the date of the invoice.

13. The Complaint Decision

The Head of Redress and Ombudsman's office:

- a. will have 20 working days to make a proposed decision based on the evidence submitted by the parties;
- b. may request further information and evidence from the parties in order to reach a fair decision. If the CRS receives no response to the further information request then the CRS will proceed based on the evidence available;
- c. Once completed, the proposed decision will be sent to the Complainant and the Member who will both have 10 working days to accept, reject or request a review of the proposed decision;
- d. If both parties accept the proposed decision this will become the CRS's final decision and will be binding on the Member;
- e. If either party considers there to be an error in fact or law then they may request a review of the proposed decision and the CRS will proceed in accordance with section 14 below;
- f. If the Complainant has accepted the proposed decision and the Member fails to respond by either accepting or requesting a review then the proposed decision will become the CRS's final decision and the Member will have no further grounds to appeal;
- g. If the Member accepts the decision but the Complainant fails to respond to the CRS's proposed decision we will consider that they do not agree with the decision but do not have grounds for an appeal and the case will be closed;
- h. The Member is generally required to comply with a binding decision within 28 days. If the Member fails to comply within the specified timeframe in the decision then they will be subject to disciplinary action by the CRS in accordance with section 19;
- i. If the Complainant does not agree with the decision they still have the option of taking the Member to court to recover any losses they believe they have suffered;
- j. We may accept a late notification from either party if they provide sufficient reason for not responding to us within the notified time scale;
- k. If the Complainant informs us they do not agree with the decision then we will inform the Member.

14. Review Acceptance Criteria and Process

Either the Member or the Complainant may request a review by completing the review form within 10 working days of notification of the proposed decision. A review can only be raised on the grounds that there has been an error in fact or in law (or both) or there has been an administrative error on the CRS's part. The person raising the review request will not be able to submit further evidence at this point.

Upon receipt of a review request the following will occur:

- a. the CRS will request a response from the other party to the complaint regarding the review request;
- b. the response must be received by the CRS within 5 working days of this being requested;
- c. from the response deadline, the Head of Redress will have 20 working days to review the proposed decision based on the review request and any further representations and provide his final decision.

After carrying out the review the Head of Redress will substitute the proposed decision with a final decision.

The final decision will set out:

1. A summary of the review request and any response.
2. The reasons, if any, for amending the proposed decision.
3. Any redress required from the Member, be it financial or otherwise.

On delivery of the final decision, the Complainant will have 15 working days to inform the CRS whether they accept the findings.

If the CRS does not hear from the Complainant after 15 working days we will consider that they do not agree with the decision and the case will be closed.

If the Complainant does not agree with the decision they still have the option of taking the Member to court to recover any losses they believe they have suffered.

We may accept a late notification from either party if they provide sufficient reason for not responding to us within the notified time scale.

If the decision is accepted by the Complainant then it will generally be binding on the Member.

This decision is final and no further requests for review will be considered.

15. Default decision process

In the event that the Member fails to respond or cooperate with the CRS complaint notification within the specified timescales, the following applies:

- a. the CRS will notify both parties that we will proceed with resolving the Complaint by referring the case to the Head of Redress for a default decision based on the evidence submitted;
- b. the default decision will be sent to the Complainant who has 10 working days to accept the default decision;
- c. if the default decision is accepted by the Complainant, the decision will be deemed to be binding on the Member;
- d. if the Member fails to comply with the decision within the specified time period, the Complainant may pursue the matter further through the legal process and will be entitled to use this decision as evidence that due process has been undertaken;
- e. in the event that the Member fails to comply with the decision they will be subject to disciplinary action by the CRS in accordance with section 19.

16. Evidence Requirements

It is the responsibility of both the Complainant and the Member to provide all evidence which they intend to rely on. The CRS takes no responsibility for evidence that either party may have, but does not submit as part of the resolution of a complaint.

Once the file has been passed to the Head of Redress a decision will be based on the evidence provided at that point. The Head of Redress may be required to clarify evidence but will only request further evidence if he feels it would be contrary to natural justice not to do so.

If the Head of Redress makes a request to a party for information or evidence and they do not respond within the period set out by the Head of Redress then any evidence provided late may not be considered.

17. Awards

In settlement of the complaint, the Head of Redress may make an award against the Member and to the Complainant consisting of one or more of the following:

- a. an apology;
- b. an explanation;
- c. practical action to mitigate any detriment;
- d. reimbursement of actual loss and/or costs incurred;
- e. a payment in recognition of time and trouble taken to make the complaint;
- f. a payment, where appropriate, for inconvenience and distress;
- g. other appropriate action suggested by the complainant or decided by the Ombudsman.

Any compensation payment will be calculated based on demonstrable loss or costs and will take into account any degree to which the Complainant has contributed to the failure or loss suffered.

The maximum monetary compensation payment the CRS can award to a Complainant is £25,000.00.

18. Interest Payments

The inclusion of an interest calculation may be considered where, for example, a specific sum of money owed to the Complainant was not paid at the proper time.

The interest rate used by the CRS is the rate used by the County Court. Interest will start from the point where the Complainant spent the money or did not receive money due, and will be applied until the date on which payment is made.

19. Non-Compliance with a Decision

If a Member fails to comply with the conditions set out in a final decision within 28 days (or the set timescale), then on confirmation that the decision has not been complied with, the CRS reserves the right to issue the Member with a fixed penalty fee (as advertised from time to time) payable to the CRS.

If the Member pays the fee and complies with the decision within a further 5 working days then no further action will be taken.

If the Member does not pay the penalty and continues not to comply with the decision then the person or business will have his membership of the CRS suspended pending investigation by the Compliance Officer. During this period the CRS will still consider and deal with any Complaints raised against the Member.

After investigation (generally 10 working days) the Compliance Officer will then make a recommendation to the Head of Redress and CRS Managing Director as to whether the person or business should have its membership terminated.

If the decision is that the Member should be removed then the CRS may be required to inform any professional association the Member is associated with.

To rejoin the CRS the person or business will be required to pay any penalty fine and comply with the decision. The person or business will also be required to pay a further membership fee (which will be double the standard amount for its class).

Section D: Scheme Matters

20. Complaints Concerning the Scheme

If a Member or consumer wishes to make a complaint against the service provided by the CRS then they must make it clear they are making a complaint and set out the reasons and the basis of the complaint.

Complaints cannot be made against a final decision of the Head of Redress as the decision is final and binding on the parties if it is agreed by the Complainant.

The complaint must be emailed to info@cosmeticredress.co.uk or posted to Cosmetic Redress Scheme, Complaints Team, 1st Floor, Premiere House, Elstree Way, Borehamwood, WD6 1JH.

All complaints will be fully considered and an initial response will be sent within 5 working days. If the Complaints Office expects it to take longer to provide a full response then they will contact the Complainant and explain why.

If the Complaints team provide a final response to the complaint then the CRS reserves the right not to enter into any further correspondence on the matter.

21. Provision of Information by the CRS

Information will be provided to any professional association to which the Member is associated.

If a regulatory or enforcement body requests any information from the CRS then this information will be provided in a timely manner as requested.

22. Confidentiality

The CRS may use any information freely provided by a Complainant or a Member in its consideration of a complaint provided it is for the express purpose of dealing with that complaint.

The CRS may refuse to disclose information to either the Complainant or the Member if:

- a. in its reasonable opinion, it is not relevant to the consideration of the complaint;
- b. in its reasonable opinion and in all the circumstances of the complaint, it is inappropriate, or unlawful;
- c. it concerns issues of national security or the personal security of the Complainant, or Member or third party;
- d. it is protected by legal or professional privilege (and such privilege has not been waived);

The CRS shall always consider any specific requests for disclosure received from a party.

The CRS will act in accordance with all data protection legislation and shall take all reasonable steps to ensure that all CRS staff keep confidential any information provided as part of the investigation of a complaint, whether or not it is disclosed to the other party.

By raising a complaint the Complainant agrees that certain personal information has been provided and they give authority for the Member to use their personal information in their response to the complaint.

23. Annual Report

The CRS Managing Director will be responsible for producing the CRS's annual report. This report will set out the activities of the CRS.

Section D: Scheme Matters

24. Best Practice

In order to ensure that best practice standards are achieved within the industry, the CRS will publicise:

- a. CRS's legal constitution, governance, and funding arrangements;
- b. the types of dispute which may be referred to the CRS;
- c. the rules governing the referral of matters to the CRS;
- d. the decision-making arrangements;
- e. the rules serving as a basis for decisions;
- f. the level and applicability of the awards;
- g. the provision for securing expert advice to assist with investigation;
- h. the jurisdiction, powers and method of appointment of any Ombudsman.

The CRS will also:

- a. publicise decisions made by an Ombudsman in the form of case studies from time to time;
- b. provide guidance on the types of evidence that are considered by the CRS and how best to set out a complaint or response;
- c. notify in writing or by telephone all parties of any action taken by the CRS in relation to a complaint;
- d. provide help and guidance to Complainants and Members to understand any CRS process or to fill out any CRS form;
- e. make the processes themselves clear, transparent, and easy to access by all without the need for specialist representation. All parties to a complaint can use third party representation if they so wish providing the CRS is provided with a satisfactory authority for that person to act;
- f. consider the needs of disadvantaged and vulnerable people and make the timescales flexible if a Complainant can show they have a valid reason to require more time;
- g. include on its website a public search facility so consumers can check whether the person or business is a Member.

25. Miscellaneous Provisions

The following miscellaneous provisions apply:

- a. these Terms of Reference may need to be updated from time to time. Notices of any significant changes will be posted on our website, in newsletters, and by email where the Member has provided us with an email address;
- b. the Member agrees to abide by the latest version of the Terms of Reference notwithstanding any earlier version which was in force when joining the CRS;
- c. we may delay action if we have any concerns about a Member's compliance with the Terms of Reference, identity, fraud or money laundering;
- d. we cannot be held responsible for intervening events beyond our control which prevent, delay or impede our ability to operate the Scheme or these Terms of Reference;
- e. the CRS will not be responsible for the Member missing an email from us when the message was received into the Member's spam email inbox. The Member is responsible for adding CRS email addresses to their 'safe sender' lists if necessary;
- f. these Terms of Reference are governed by and shall be construed in accordance with relevant UK law;
- g. our previous decisions may not be relied upon as precedent or authority for deciding any following complaint. Each complaint is addressed on its own individual merits and supporting evidence submitted by both parties.

APPENDIX 1

Professional Associations Recognised by the Cosmetic Redress Scheme



British Association of Cosmetic Nurses (BACN)



British Association of Hair Restoration Surgery (BAHRS)



Private Independent Aesthetic Practices Association (PIAPA)



Independent Academy of Advanced Facial Aesthetics (IAAFA)



Save Face



British Association of Sclerotherapists



Consulting Room



APPENDIX 2

Award

A payment as outlined in a decision.

Complainant

A consumer of services provided by a Member who has a complaint against the service provided by the Member.

Error in fact or law

An error in fact is not a difference of opinion on a matter, it is when a fact materially relevant to the case, which was set out in the complaint or response, has not been dealt with in the decision. An error in law would be if the Head of Redress made an error based on interpreting any relevant law incorrectly.

Final decision

The CRS's final decision having taken into consideration any review request made by the parties. No further review request will be considered.

Formal complaint

A written communication from the consumer to the Member expressing dissatisfaction with the service provided.

Member

A cosmetic practitioner or service provider with a live membership with the CRS.

Proposed decision

A decision provided by the CRS to the parties which can be subject to a review if either the Complainant or Member believes that there is an error in fact or law in the decision or the CRS has made an administrative mistake.

Subscription

The period of paid membership with the CRS usually for one year.

Time and Trouble


A time and trouble payment is distinct from payments for actual losses or costs. It covers the time and trouble reasonably and legitimately expended by the Complainant in having to pursue the complaint with the Member and with the CRS.

Vulnerable consumer

A person whose personal circumstances or characteristics affect their ability to understand a transaction or make a decision, for example, a language barrier, physical or mental disability.

Cosmetic Redress Scheme

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