



Alternative Dispute Resolution (ADR) Role and Certification

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Contents

1	Overview	3
2	Definitions.....	3
2.1	Complaint	3
2.2	Dispute	3
3	Responsibilities of ADR in LOK.....	4
3.1	Role of ADR Provider	4
3.2	Reasons for Refusal to take a Dispute by an ADR provider	4
3.3	Binding Nature of Outcome	4
3.4	ADR Parameters	5
3.5	Resolution Time.....	5
4	Qualifications for CGA's ADR Certification	5
4.1	Provision of Operational Information	5
4.2	Legal and Industry Expertise.....	5
4.3	Proof of Independence.....	6
4.4	Established Procedures	6
5	Certification Process.....	7
5.1	Application.....	7
5.2	Assessment	7
5.3	Ongoing Monitoring	8

1 Overview

These guidelines set out the requirements for Alternative Dispute Resolution (ADR) certification by the Curacao Gaming Authority (CGA).

Operators are required to engage certified ADR entities to offer players a transparent and independent mechanism for resolving disputes outside of court as part of their complaint escalation process in adherence to Article 5.3 of the LOK. ADR can make it easier for players to resolve disputes while reducing costs and resolution time for both parties.

This guideline document outlines the required ADR qualifications, and related requirements under the LOK.

Note:

- Only ADR entities that have a Certification from the CGA (published on the official website) will be permitted to conduct Dispute mediation and resolution on behalf of CGA B2C license holders.
- Every B2C licensed operator must inform players in Terms and Conditions which ADR entities are available to the player.
- If an operator offers multiple ADR choices only the player may choose with which one to engage in the event of a Dispute.
- The operator will bear all costs of the ADR process.

2 Definitions

2.1 Complaint

A Complaint is a written expression of dissatisfaction by a player relating to the operator's services, decisions, terms, or conduct, which indicates the player is unhappy and expects a response or resolution.

2.2 Dispute

A Dispute is a Complaint that has not been resolved to the player's satisfaction through the internal complaints process.

3 Responsibilities of ADR in LOK

Under the Player Complaints Policy, operators must handle player Complaints and Disputes according to established standards. If a Complaint is not resolved to the satisfaction of the player, it may be escalated by the player to qualify as a Dispute, if taken to an ADR provider by the player.

3.1 Role of ADR Provider

- Delivering decisions that are well-substantiated based on evidence and reasoned analysis.
- Ensuring independence, impartiality and sufficient expertise in handling disputes.
- Guaranteeing transparency and fairness thereby ensuring compliance with applicable regulatory requirements.
- Establishing the duties to each party regarding actioning the decision
- Establishing whether or not publicity is permitted.

3.2 Reasons for Refusal to take a Dispute by an ADR provider

The ADR has a discretion to refuse to take a case in circumstances where:

- The Complaint handling process has not been fully completed in accordance with the Player Complaints Policy set out by the CGA.
- The dispute is evidently frivolous or vexatious.
- The dispute falls outside acceptable ADR Parameters set by the operator.
- The dispute is currently under consideration by another ADR provider or a court.
- The dispute has already been reviewed by any CGA accredited ADR provider and a decision has been reached.
- The player is resurrecting a Dispute that has already commenced ADR with any CGA accredited ADR provider, however it was terminated by that ADR provider due to lack of engagement by the player or it was otherwise declined other than for reasons of conflict of interest.
- Conflict of interest.

3.3 Binding Nature of Outcome

The CGA expects that the outcome of the ADR process is binding to the operators.

3.4 ADR Parameters

ADR parameters may be defined by the operator, in order to prevent misuse: for example, by stipulating whether ADR outcomes are binding on the player, or by setting a minimum claim value for escalation. The CGA advises operators to carefully evaluate such conditions and to obtain independent legal advice, as certain civil law provisions may render these restrictions unenforceable.

When reviewing ADR frameworks, the CGA will consider all relevant circumstances in assessing whether anti-abuse measures are proportionate. For instance, the CGA recognises that very low-value claims may raise legitimate concerns about potential misuse. However, each case must be judged on its own merits. Where a claim relates to the admission of a self-excluded player or other responsible gaming measures the CGA expects the matter to be addressed with full seriousness, regardless of the monetary value involved.

3.5 Resolution Time

The ADR process is expected to take no more than 90 days from the initial referral of the Dispute to its completion.

4 Qualifications for CGA's ADR Certification

To maintain the integrity of dispute resolution, only ADR entities who hold an official Certification from the CGA will be entitled to act as ADR providers for CGA license holders.

4.1 Provision of Operational Information

The ADR provider must complete any forms provided by the CGA and make available to the CGA all relevant information that fully demonstrates its ability to meet the requirements of this ADR Certification Policy. These include the minimum requirements outlined below.

4.2 Legal and Industry Expertise

- At least one key person in the ADR provider must be a practicing or former practicing barrister or lawyer.
- The ADR team must consist of 3 or more people each of which must have relevant professional experience.

- The members of the ADR team should be able to understand the information they are being provided such as (but not limited to) how the gaming system is operated, typical terms and conditions of gaming operations, the standards of any governing body of the particular sport or event, the determination of the outcome, the nature of the bet being placed i.e. fixtures, parlay and how lines are calculated.
- All of the designated adjudicators/ mediators must have sufficient knowledge about all applicable regulations, included but not limited to:
 - All provisions under or pursuant to the LOK
 - All policies and procedures issued by the CGA
 - All other administrative and civil law regulations in Curacao.

4.3 Proof of Independence

- The ADR and related companies / persons must not engage in affiliate business or marketing activities for gambling operators.
- The ADR and related companies / persons must not offer any other B2B products or services to Curacao licensed operators.
- There must be no conflict of interest between the member(s) of the ADR team that are involved in the Dispute and either party to the Dispute.
- Where ADR officials work part-time for the ADR provider and part-time in another capacity, providers must ensure that the official is not conflicted by their non-ADR duties.
- The ADR provider cannot be a related or affiliated party to an operator in relation to any matter with which it agrees to engage.

4.4 Established Procedures

- ADR providers must submit detailed Rules of Procedure.
- A fully operational dispute resolution process must be in place and operational.
- ADR officials must have a term of engagement ensuring independence and must not be remunerated based on case outcomes in favour of either party.

5 Certification Process

5.1 Application

ADR entities that meet the qualification criteria outlined above may apply for certification by emailing certification@cga.cw with credible documentation and supporting evidence of being able to meet the entirety of the criteria set by this ADR Certification Policy.

- The CGA will respond to certification applications within 6 weeks with a discretionary extension of a further 6 weeks on the part of the CGA.
- The evaluation process may require a face-to-face or online meeting with a request for additional information or engagement.
- A list of Certified ADR entities will be published on the CGA website.
- Any changes to certification qualifications/ must be reported to the CGA within one week of the event.
- The CGA reserves the right to remove any ADR provider from the Certification List at its discretion.

5.2 Assessment

The CGA will assess ADR providers based on:

- Due diligence on all key personnel.
- Qualifications on legal abilities.
- Gambling experience.
- Compliance with published policies and legal requirements.
- Proven fairness and impartiality in dispute resolution in its procedures including:
 - Evidence examination.
 - Identification of key issues.
 - Understanding that a power disparity may exist between the parties.
 - Asking the right questions, in the right way to elicit all the relevant facts.
 - Correct interpretation of relevant legislation.
 - Tailoring each communication and outcome notification to the case, ensuring that the consumer's perceived level of understanding is respected.
 - Quality of service, including transparency and player accessibility.

The CGA's decision regarding certification of an ADR provider is final.

5.3 Ongoing Monitoring

- ADR providers will need to ensure that they consistently meet the requirements of this or any subsequently updated policy.
- ADR providers are required to inform the CGA of any changes to their circumstances that might affect their Certified status.
- The CGA will engage in active monitoring of the Certified ADR providers and expects full cooperation at such times. This includes but is not limited to
 - Conducting reviews of and/or visits to the provider.
 - Taking remedial or preventative action.
 - Imposing additional requirements.
- If a Certified ADR provider fails to meet any of the applicable rules or regulations, the CGA can take enforcement action, which, depending on the nature and severity of the non-compliance, may include revoking the certification.
- As above, if an ADR company is removed from the Certification List, it must notify all operators with whom it has agreements within two business days of removal. If the ADR provider is actively handling one or more disputes at the time of removal, the CGA will assess each dispute on a case-by-case basis to determine the appropriate course of action. Where an operator has only one ADR provider and that provider is removed, the operator must engage a replacement from the certified ADR provider list without delay and notify the CGA accordingly.