Alternative dispute resolution: what is it and why is it needed in this industry?

As of October 2015, all traders are legally required to inform clients of an appropriate redress scheme as part of their complaints policy or procedure. In line with this, the Cosmetic Redress Scheme (CRS) has been created as the only industry-specific scheme approved by trading standards. Amy Senior outlines the purpose of the CRS and how problems arising in aesthetic clinics can be effectively resolved.

As a representative of the Private Independent Aesthetic Practices Association (PIAPA), I was recently invited on to the advisory panel for a newly-formed alternative dispute resolution (ADR) scheme, which is designed specifically for the cosmetic industry.

The Cosmetic Redress Scheme (CRS) has asked several representatives of well-known industry organisations and other stakeholders, such as PIAPA, Consulting Room, British Association of Cosmetic Nurses, British College of Aesthetic Medicine and Save Face, as well as other experienced individuals in aesthetics, to steer the new scheme in the right direction and raise awareness of ADR among aesthetic professionals.

Most people have heard of small claims court and understand its reason for being is to resolve disputes between two parties over monetary matters, which are often disagreements between a consumer and trader. However, many business owners and consumers will not be aware of ADR, which was introduced as a mandatory requirement of all traders by the UK Government in October 2015. It is hoped that ADR will prove a useful tool to divert unnecessary cases that have been escalated too quickly to small claims court without full consideration, which can be a lengthy and costly affair.

ADR is essentially a service provided by an authorised third party to assist in mediation or arbitration on a dispute between a trader and consumer. There are some industry-specific bodies that are already well-known and established within regulated sectors, such as the Financial Services Authority and Office of Gas and Electricity Markets.

ADR schemes are not a replacement for a basic complaints policy or the small claims court, but rather a stepping stone. It is still important as a product or service provider that you try to reach an amicable resolution or compromise before escalating a complaint or dispute to the next level. However, on occasions where a resolution cannot be met, both the consumer and the tradesperson can look to a third party in the form of an ADR scheme to assess the situation neutrally. The scheme will then either offer a mediation service, where they will help the parties to come to their own agreement, or arbitration, where they will reflect on the cases of both parties and provide a final resolution that they must adhere to.

It is now a legal requirement that all businesses are able to point out an appropriate redress scheme either within their complaints policy/process or when a complaint is raised by a client. It is important to note that it is possible to become a member of a redress scheme or body, but this is not legally necessary; it is only a legal requirement to name one in your complaints procedure. However, being a member of an ADR scheme may offer benefits, such as free complaints protocols and legal advice, and you may find that if you call on redress services of a body without first being a member, the cost of these services is a much higher fee. The best comparison would be like calling a vehicle breakdown service but not being a member first and getting charged more for them to fix the problem.

Unlike small claims court, ADR is quite often faceless with most schemes making their considerations based on documents and statements from both parties, which does not necessarily require a face-to-face meeting. The fee payable is always the responsibility of the trader. The process can take up to 75 days and the scheme has the right to refuse the matter on various grounds, such as the consumer failing to first make their complaint to the trader, if the complaint has already been considered by another scheme/court, or if the value of the claim is above or below the threshold.

There are some specific considerations for the aesthetic practitioner and business owner when it comes to ADR. First of all, a redress scheme is absolutely not in place of insurance and is not designed to resolve medical matters, especially malpractice. A redress scheme should be qualified and knowledgeable enough to identify cases which require medical adjudication from medical experts or councils, such as the Nursing and Midwifery Council, and consumer matters, such as a trader not honouring an offer or misselling results and not delivering them.

CRS is the only industry-specific scheme that has been approved by trading standards to deal with disputes regarding cosmetic and medical aesthetic treatments. However, there are also other established generalised ADR schemes, such as ADR Group, Centre for Effective Dispute Resolution and ProMediate UK. A full list of approved schemes can be found online at http://tinyurl.com/jfyvtou.