

ALTERNATIVE DISPUTE RESOLUTION

CHRE welcomes and promotes the use of Alternative Dispute Resolution (ADR) to resolve cases that are or may be referred under Section 29 of the NHS Reform and Health Care Professions Act 2002.

CHRE's power under Section 29 is to refer to the High Court (or its equivalent throughout the UK) a regulator's relevant decision on a fitness to practise case for the protection of the public. If CHRE's appeal is allowed the judge may remit the decision for redetermination or substitute his or her own decision for the one made by a regulator. Whilst only a judge can alter a regulator's decision, the parties may use ADR to agree between themselves and recommend to the judge how best to resolve a case. The parties can thereby minimize costs and resolve a case at an earlier stage than having a full Court hearing.

There are a variety of different ADR processes and CHRE recognizes that it is important to keep an open mind about the possibility of resolving its concerns in the individual case and to adopt the approach that is appropriate in all the circumstances. CHRE considers that in many Section 29 cases the appropriate approach is likely to be to seek proposals from, and have discussions with, the regulators and registrants with a view to resolving CHRE's concerns. This approach has already been used successfully in many cases, resolving them earlier, saving resources and enhancing professionally led self-regulation.

CHRE wishes to encourage regulators and registrants to take advantage of ADR in resolving Section 29 cases. As Lord Woolf noted in *Cowl v Plymouth City Council*, "*Today sufficient knowledge should be known about ADR to make the failure to adopt it, in particular when public money is involved, indefensible.*"

CHRE pledges that ADR, in any form appropriate in all the circumstances, will be considered and used in *all* suitable cases wherever the other parties are prepared to explore resolving the case.