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“Legal Disputes Resolution in the Hospitality Industry”

by

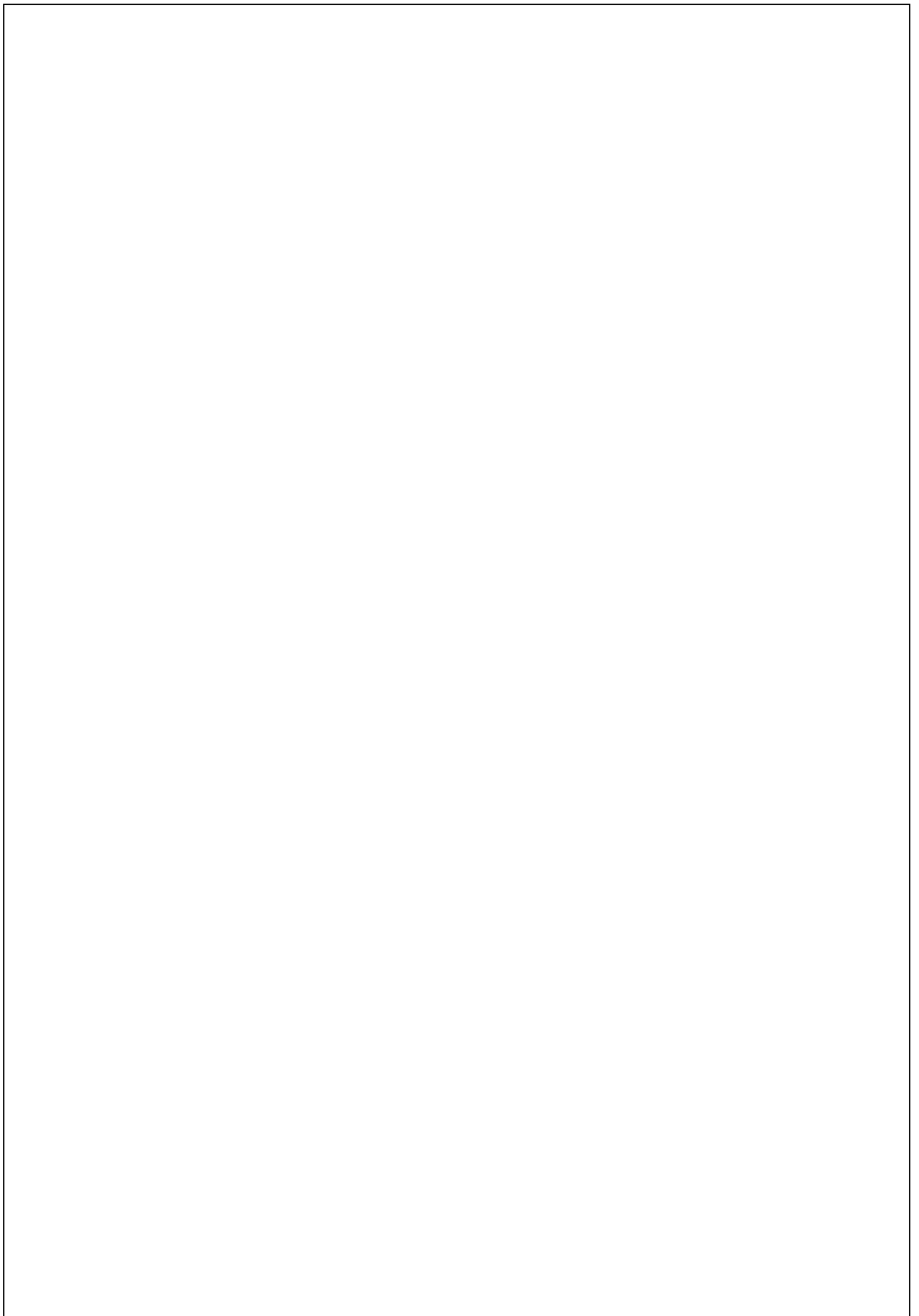
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A dissertation presented to the

Faculty of Law
Independent College Dublin

MA in Dispute Resolution

Dublin, Ireland at 22nd May 2020



Declaration

I hereby affirm that:

- This Master's dissertation represents my own written work except where stated otherwise by reference.
- All sources have been reported and acknowledged.
- This dissertation has not been submitted entirely or in parts for any degree or other qualification.

Signed: Karen Patricia Molina Ornelas



Date: 22nd of May 2020

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“No one who achieves success does so without the help of others. The wise and confident acknowledge this help with gratitude.”

– Alfred North Whitehead

Abstract

Alternative Dispute Resolution (ADR) is now becoming the more common option for resolving disputes rather than heading straight to the courts. As an industry that has existed from the earliest days when societies first came into being, not only has the hospitality sector continuously sought to improve its services but also it has never ceased its efforts to learn more effective methods of managing conflicts.

Therefore, the aim of this dissertation is to investigate how the hospitality industry resolves legal disputes with their guests. In order to be able to provide a thorough picture of what has been researched in this topic, the literature review provides initially a general analysis of the hotel operation, handling complaints and Alternative Dispute Resolution (ADR). Then it focuses on a more detailed research on prevention and legal complaints in the hospitality industry.

This study collected qualitative data from General Managers and Duty Managers working in different hotels in Dublin, Ireland. A narrative analysis was used as a method to analyse the findings of this research project. Semi-structured interviews were used as a data collection method to collect the outcomes. Considering the data collected, the researcher was able to categorize and analyse the most important findings to answer the main research question – “Is Alternative Dispute Resolution (ADR) currently being used in the Hospitality Industry to resolve legal disputes that are occurring between hotels and their guests?”

Considering the literature review and the methodology used, it can be concluded that prevention is the key to avoid legal conflicts with guests. In addition, it was also found that General Managers and Duty Managers strenuously work to provide their staff members with good training, particularly regarding being prepared and having a knowledge base of the processes involved in dealing with incidents that can lead to legal action. The outcome of this research recommends that hotels look at other alternatives besides litigation to resolve legal conflicts with their guests.

Keywords: Hospitality, Complaints, Alternative Dispute Resolution, Prevention, Training.

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List of Abbreviations

ADR	Alternative Dispute Resolution
F&B	Food & Beverage
WOM	Word of Mouth
WRC	Workplace Relations Commission
GM	General Manager
HOD's	Head of Departments
HR	Human Resources
SLP's	Safety and Loss Prevention
CCTV	Closed-Circuit Television
PPA	Per Person Average

Chapter 1 – Introduction

“The courts of this country should not be the places where resolution of disputes begins. They should be the places where the disputes end after alternative methods of resolving disputes have been considered and tried.”

– Sandra Day O’Connor

Hospitality is an industry that endeavours to provide the perfect service and the best experience for their guests. According to the American Hospitality Academy World Campus, the term “hospitality refers to the relationship between a guest and a host” (no date). However, the term “hospitality industry serves as an overarching label for business whose primary purpose is to offer food, beverage and accommodation” (Lucas, 2004). As well as the hospitality industry provide services to satisfy guests, it also encompasses protecting the company from the kinds of accidents and incidents that can lead to a legal action (Cournoyer, et al., 1999).

This dissertation will discuss legal disputes resolution in the hospitality industry. Legal disputes in the hospitality industry are better known as “*complaints*”. Accidents, negligence, breach of contract, injuries and/or overbooking are the main aspects being focused on, as these complaints can bring a company to legal action if the staff members of the hotel do not know how to deal with them in first instance. According to Dallas (2011, p. 205) it’s important that managers are familiar with many legal dangers to which hotels are subject. Managers should have enough legal knowledge to be aware of strategies that minimize the property’s exposure to potential litigation and to train employees to minimize risks in the company.

Writing from the perspective of my personal experience working in this industry for about 5 years, it is clearly evident that the service provided to the guest is of the most importance. Also, I have found in my experience that operation managers go to great efforts to prepare their staff to act effectively in conflict resolution so that problems can be resolved quickly to all parties’ satisfaction. According to Walker and Miller (2017, p. 283) sometimes conflicts cannot be resolved within an organization, and

the dispute might escalate to the point that it seems inevitable that the organization or an individual will be sued. Happily, there is an intermediary step that can be taken before that happens. Alternative Dispute Resolution (ADR) is a term to describe problem-solving and grievance-resolution approaches that address employee relations and disputes outside the courtroom.

My background in the hospitality industry together with my recent studies in Dispute Resolution directed me to the question, “Is Alternative Dispute Resolution (ADR) currently being used in the hospitality industry to resolve legal disputes that are occurring between hotels and their guests?”

This dissertation investigates how the hospitality industry is resolving conflict with their guests, to assess how this industry is preventing future disputes, to understand what the steps the hospitality industry is taking to educate their staff in handling complaints and to identify if the hospitality industry is currently using ADR as an alternative to litigation.

1.1. Background of Dissertation

As a criminologist who has worked in hotels since I moved to Ireland, I find all situations regarding legal aspects, crime and prevention of great interest. The obvious research topic, with my qualifications together with my recent studies in Dispute Resolution and, also considering that I am currently working in this area was of course, the Hospitality industry, itself.

Handling complaints is essential for keeping guests happy but I soon realized that a gap existed in my knowledge of how a complaint regarding an accident or negligence could be processed to a conclusion beneficial for all interested parties. In my personal experience in this sector, I have been fortunate not to have been involved in any kind of legal complaints but of course it could happen and it is necessary to be prepared for such an eventuality. I wanted to learn how the back office line is dealing with these situations and to explore other alternatives being used by the hospitality industry besides litigation, to resolve legal conflicts with guests.

1.2. The Scope and Limitation of the Research

The scope of this project is to explore the disputes resolution between hotels and guests regarding legal complaints such as accidents, negligence, overbooking, injuries and/or breach of contracts. Also, this paper includes the analysis of prevention measures that the hospitality industry takes to avoid future disputes and the training that the hotel provides to their staff members.

The main limitation of this study lies in exploring only hotels from the same group. I acknowledge that there are different hotels which might have the same philosophy in terms of training and prevention.

1.3. A Dissertation Road Map

This research has been divided into 8 sections to ease the reading of the document.

Chapter 1: Introduction

This chapter is the introduction of the dissertation's topic, where the reader gets the main points of information to enable understanding of the context and purpose of the research.

Chapter 2: Aims and Objectives

In this chapter, the reader will be able to ascertain what the researcher wants to achieve. It includes an explanation of the researcher's prime focus and objectives of the dissertation. The main research question is presented at this point.

Chapter 3: Literature Review

This chapter includes the literature review which provides the key to understanding what the topic covers and the aspects that it involves. The researcher produces the review of the relevant literature and examination of other authors found related to the research topic.

Chapter 4: Research Methodology and Methods

This chapter describes the methodology and methods used in the research. As the aim of this research is to find out how the hospitality industry resolves legal disputes with their guests, the research is

done in a qualitative way, which allows a deep analysis of people's experience in this sector. The collection of data was conducted via interviews. Also, in this chapter, ethical research and the limitations of the research are discussed.

Chapter 5: Presentation of Data

In this chapter, the researcher explains all the aspects of the instruments for data collection, the selection of the strategy to approach the study and the sample chosen for this research also is described.

Chapter 6: Data Analysis & Findings

Analysis and findings of the data gathered through the selected instrument of the research methodology is provided. The findings are divided into 4 categories for a more facilitative and accessible data analysis.

Chapter 7: Discussion

Results obtained in the previous chapter are the main points of focus. The aim of this section is to contrast the results and theories of previous studies. Also, answers to the research question are discussed.

Chapter 8: Conclusion

As this is the last chapter of the dissertation, this section connects the aims and objectives with the discussion in earlier chapters. The reader will find the conclusions and recommendations that are made to other researchers that might be interested in exploring the same topic.

Chapter 2 - Aims and Objectives

Hospitality is an industry that existed in the earliest days of society and continues to make strenuous efforts to keep guests happy. The concept of hospitality is as old as civilization itself (Walker, 2017, p. 36). Hosts learned quickly what was required to keep their guests happy. Of course, this included dealing with complaints. The often-quoted Cesar Ritz, “*The guest is always right*” is a well-known and often observed mantra. Apologies, rewards or complementary gifts frequently resolve problems, but what can be done if a complainant decides that none of these are enough and decides to take legal action?

The aim of this research is to find out how the hospitality industry resolves legal disputes with their guests.

The objectives are:

- To assess how the hospitality industry is preventing future disputes
- To understand what the hospitality industry is doing regarding provision of qualified staff to handle dispute resolution
- To identify if the hospitality industry is currently using ADR
- To explore and assess how the hospitality industry is dealing with legal conflicts

The main research question:

“Is Alternative Dispute Resolution (ADR) currently being used in the Hospitality Industry to resolve legal disputes that are occurring between hotels and their guests?”

Chapter 3 - Literature Review

Conflict exists in all human relationships. Where people are providing a service, conflict is inevitable. It is a feature of life that we face with our parents, teachers, partners, children, colleagues, and almost everyone else we deal with (Landau, et al., 2001, p. 3). On the other hand, hospitality, an industry which has been shaped by its history, has had to adapt and learn how to resolve problems and disputes. It is in a constant flux of having to adapt quite significantly in response to changing demands and expectations of customers (Crick & Spencer, 2015, p. 22).

The literature review is going to be divided into three sections. The first part, hospitality and its engagement with complaints and the hotel management, will be discussed. In the second section, aspects regarding Alternative Dispute Resolution will be featured. The third section will be about dispute resolution related to legal conflicts in the hospitality industry.

3.1. Hospitality

The word hospitality comes from hospice, an old French word meaning “to provide care/shelter for travelers” (Walker, 2017, p. 36). According to Ottenbacher *et al* (2009) (Cited in Crick & Spencer, 2015, p. 22) the word “*hospitality*” is often used to describe the rather broad field that incorporates lodging, food service, leisure, conventions, travel and attraction. The primary function of a hotel is to provide accommodation. A large hotel is run by a General Manager and an executive committee that consists of the key executives who head the major departments: rooms division Manager, food and beverage manager, marketing and sales director, human resources, chief accountant, and chief engineer (Walker & Walker, 2014, p. 96). Therefore, the hospitality industry can be defined “as the collection of businesses providing accommodation and/or food and beverages to people who are away from home” (Baker, et al., 2000, p. 2).

In hospitality operations, as in other services, the expectations and perceptions of the customer are heightened because the customer is involved in the performance of the service (Crick & Spencer,

2015, p. 26). Service is defined in Webster's New World Dictionary as "the act or means of serving". To serve is to "provide goods and services for" and "be of assistance to" (Walker & Walker, 2014, p. 12).

According to Schiffman and Kanuk (2004) customer satisfaction is typically defined as "the individual's perception of the performance of the product or service in relation to his or her expectations" (Cited in Torres & Kline, 2015, p. 164). Customer satisfaction has been the goal of service organizations including hospitality and obviously, having an understandable definition of what customer satisfaction entails is helpful. Torres and Kline (2006) argue that customer satisfaction merely means that customers are at ease but they are not necessarily excited by the firm (Cited in Crick & Spencer, 2015, p. 25). However, Patterson (1997) explains that "customer delight is where the experience goes beyond satisfaction and involves a pleasurable experience for the guest" (Cited in Torres & Kline, 2015, p. 165).

A guest is anyone who receives or benefits from the output of someone's work (Walker & Walker, 2014, p. 23). A customer means not just the paying customer but anyone who receives the benefits of goods and services. Kristina Evey (2010) explains that the entire hospitality industry uses the word "*guest*" as opposed to customer whenever possible. By referring to the customer as a guest, it makes them feel special which is beneficial not just for the guest but also for the host. In the words of Barth (2006, p. 263) guests are the lifeblood of any hospitality organization. Without a sufficient number of guests, success and profitability in the hospitality industry is impossible.

3.2. Hospitality Complaints

Complaints are statements about expectations that have not been met (Barlow & Møller, 2008, p. 22) but also complaints are a feedback mechanism that can help organizations rapidly and inexpensively shift products, service style, or market focus to meet the needs of their customers (Barlow & Møller, 2008, p. 11).

When we discuss the issue of complaints in the hospitality industry, the usual issues include problems such as cold or overcooked food, long wait for service or rooms unready at check-in. In this industry, there are many complaints every day which need to be handled in the most efficient and satisfactory manner to keep the guest happy.

Cranage (2004) suggests that: “The most obvious strategy in dealing with service failure is to get it right the first time.” Indeed, firms constantly strive to provide flawless service. Unfortunately, as several authors such as Choi and Mattila (2008) have expressed, that regardless of how much a company prepares to deliver quality service, service failures are inevitable due to the nature of the service industry (Cited in Torres & Kline, 2015, pp. 167,168).

Complaints are the day to day business of the hospitality industry and it is important to highlight who are responsible for handling these situations in the hotel management.

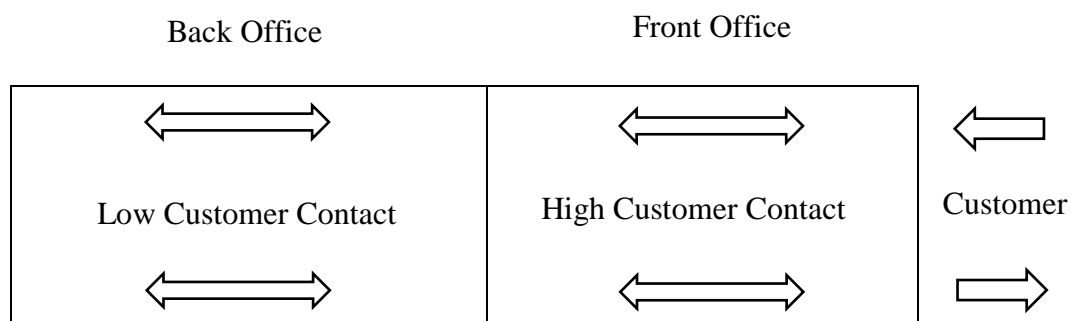


Figure 1. Front office and back office in operation management (Greasley, 2013, p. 13)

Different organizations will have a different balance between front and back-office operations. The front office line will be focused on the service experience of the customer (2013, p. 13). The front office line are the people who are directly looking after the guest, such as, the receptionists, F&B staff and in some cases the Duty Manager. When a complainant first presents themselves, the front office line is where the guest will find the staff who handle the situation. In some cases, where complaints may spiral out of control of the receptionists, the Duty Manager is introduced to resolve the situation. According to Crick and Spencer (2015, p. 22) “the employee-customer dyad is of course mediated by the manager.”

When we talk about complaints, companies can create a feeling of reciprocity by taking customers' complaints seriously and offering a price reduction, or no charge at all, a sincere apology, a free product or gift, a coupon for future price reduction (Barlow & Møller, 2008, p. 114). And these are just a few examples of how to handle a complaint and demonstrate to the guest the importance the host places on compensating for the guest's negative experience in the company. These situations are common in the hospitality industry.

Furthermore, frontline and managerial employees are more and more often identifying conflict resolution skills as necessary tools for dealing with coworkers, managers and customers (Landau, et al., 2001, p. 6), as Bernard Mayer said, conflict is natural, inevitable, necessary and normal, and that the problem is not the existence of conflict but how we handle it (Cited in Landau, et al., 2001, p. 3). According to Cahn *et al* (2014, p. 250), managers spend an average of 20 per cent of their time managing conflict. That's why conflict resolution skills are necessary in the hospitality industry. It is essential to have the tools to deal with any kind of conflicts, from the guest to the employees.

3.3. Importance of Handling Complaints

Barlow and Møller (2008, p. 3) explain that many people and organizations have improved their skills when it comes to handling complaints. Several large companies have instituted technological approaches in order to provide more efficient responses. And many companies educate their staff in the best methods for conciliating upset customers.

But why is it so important to handle complaints? Well, in the hospitality industry, competently handling complaints provides the opportunity for the company to retain a guest's custom, avoid bad reviews and negative word-of-mouth and/or a lawsuit. According to Barlow and Møller (2008), handling customer complaints the right way enables the company to create customer loyalty. Chaudhuri and Holbrook (2001) define loyalty as "a commitment to patronize a product or service consistently in the future" (Cited in Torres & Kline, 2015, p. 166).

As we have seen, handling a complaint is extremely important to the company. When a guest has a positive, enjoyable experience, it can follow that they will be happy to return to the hotel. Word-of-Mouth will be positive and this can generate new customers in the future. In the words of Solomon (2018, p. 422) “word-of-mouth (WOM) is product information that individuals transmit to other individuals.” Torres and Kline (2006) state that delighted consumers are by contrast not only excited but are likely to give positive WOM referrals to others. Delight has been associated to other positive outcomes including customer retention, higher profitability and may create a competitive advantage that is difficult to imitate (Cited in Crick & Spencer, 2015, p. 25).

On the other hand, negative WOM can even affect an entire industry dramatically (Barlow & Møller, 2008, p. 48). According to Solomon (2018, p. 425) informal discussions among consumers can make or break a product or store. Furthermore, consumers weigh negative WOM more heavily than positive feedback does. Especially when we consider a new product or service, we’re likely to pay more attention to negative rather than positive information and to relate to others the details of our negative experiences.

At this point, we should understand the vital importance of handling complaints in the right way. There is more to lose for the company than just a guest. So as quoted by Phil Crosby, “*satisfy the customer, first, last and always...*”.

3.4. Complaints that can take you to court

The focus of this research is to find out if the hospitality industry is currently using Alternative Dispute Resolution (ADR) to resolve legal conflicts with their guests. Also, to ensure a full understanding of the prevention measures that are being taken to prevent disputes in the future.

Complaints are a feature of everyday life in the hospitality industry. Even though managers and front office line staff are trained to resolve any kind of conflict with efficacy, it is important to note that not all disputes can end in amicable solutions. Certain conflicts end up in court. Complaints of this kind are not always visible on the front office line. They are processed through to the directives of

the hotel better known as “back office line.” As explained by Cournoyer *et al* (1999, p. 17), the complaint at this stage, is a document issued by the plaintiff which contains allegations, that is, unproven statements of the charges or claims against the defendant.

Confidentiality is often required by the hospitality party in regard to hotel employees, lenders and other third parties who may perceive themselves to be affected by the dispute but whose involvement is not necessary to its resolution (Robinson, et al., n.d.). The last thing that the hotels would want in this scenario, is to be exposed to the public eye, as this can affect the image of the company.

However, day after day, in hundreds of situations, the actions of hospitality managers will influence the likelihood of the business or the manager becoming the subject of litigation (Barth, 2006, p. 3). Fortunately, there are other options besides litigation. Two other common methods being mediation and arbitration. Both can be highly effective alternatives to the time, cost and stress involved in going through a trial (Barth, 2009, p. 273).

3.5. Alternative Dispute Resolution (ADR)

Each year, too many lawsuits are filed against hospitality operations, resulting from accidents that have occurred on the grounds, or inside, of an operation’s physical facility (Barth, 2009, p. 293). A simple slip by a guest can cost a considerable sum in injuries to the company if the guest takes legal action against the hotel for the incident. The question here is; how should the hospitality industry resolve these matters? Are they aware of ADR as an alternative to resolve these types of disputes instead of litigation? Is ADR an appropriate alternative?

The Law Reform Commission (2010) defines ADR as “a broad system of structured processes, including mediation and conciliation which does not include litigation, though it may be linked to, or integrated with litigation and which involves the assistance of a neutral third party, and which empowers parties to resolve their own disputes.” In other words, Alternative Dispute Resolution (ADR) is the procedure for settling disputes without litigation, such as arbitration, mediation or

negotiation. They are increasingly being utilized in disputes that would otherwise result in litigation (2016). Litigation is the term used to describe proceedings initiated between two opposing parties to enforce or defend a legal right (Johnson, 2018).

Because of the significant rising costs involved in civil litigation, many business organizations are increasingly turning to ADR as the preferred way of settling disputes (Robinson, et al., n.d.). Also, ADR has become popular because of its focus on fair and reasonable outcomes that are arrived at expeditiously, at less cost than through litigation and in a more cordial, less confrontational atmosphere (Robinson, et al.).

Even though, mediation and arbitration are the most common ADR, it is important to be aware and informed of the existence of the other Alternative Dispute Resolutions.

3.5.1. Mediation

Mediation is a process in which a third party, who is impartial, has no stake in the outcome. Also, the mediator has no power to impose a decision. Disputants are guided through a non-adversarial discussion process that has, as its goal, the settling of disputes (Isenhardt & Spangle, 2000, p. 72). The Law Reform Commission (2010, p. 22) defined mediation as “a facilitative and confidential structured process in which the parties attempt by themselves, on a voluntary basis, to reach a mutually acceptable agreement to resolve their disputes with the assistance of an independent third party, called mediator”.

Mediation is one of the most common ways to resolve disputes involving families, co-workers and the hospitality sector. Effectively trained mediators can resolve up to 75 percent of all worker complaints without litigation. The resolution can range from a simple apology to reinstatement and substantial monetary damages (Barth, 2009, p. 243).

3.5.2. Arbitration

Arbitration is the ADR option favored for conflict involving construction contracts, securities transactions, lemon laws, insurance claims and labor disputes (Isenhart & Spangle, 2000, pp. 129,130). Arbitration is defined as “a private mechanism for the resolution of disputes which takes place in private, pursuant to an agreement between two or more parties under which the parties agree to be bound by the decision to be given by the arbitrator, according to law after a fair hearing, such decision being enforceable at law” (Brown & Marriott, 2002, p. 49).

Benson (1996) explains, parties can define the arbitration process to be whatever they wanted and thereby tailor the dispute resolution process to their particular circumstances and disputes (Cited in Isenhart & Spangle, 2000, p. 130). Some of the characteristics of arbitration according to Isenhart and Spangle (2000, p. 130) are that, it’s informal, the rules of evidence are not strictly applied, the arbitrator may or may not provide reasons for the award, and the disputing parties may select the person who will serve as arbitrator.

The reason that hotels prefer arbitration is that the process is private. Even the fact that an arbitration is under way does not subject it to public disclosure. Hotels are not obligated to disclose how many clients they are suing and the documents that inevitably are revealed to the parties, aren’t subject to third-party scrutiny either (Goldberg, 2008). Pucciarelli (2018) states the following:

Arbitration can involve many different types of disputes in the hotel industry but the following are typical of disputes involving the degree of “severity” for which arbitration is suitable as an alternative to expert determination and judicial resolution: the scope and validity of a significant agreement, claims of wrongful termination of a significant agreement, owner claims of mismanagement by the management company, owner-contractor disputes regarding the construction of a new hotel, interpretation of collective bargaining agreements and franchisor claims that the hotel fails to comply with mandated standards.

3.5.3. Negotiation

Negotiation is getting what you want from others. It's back-and-forth communication designed to reach an agreement when you and the other party have some interests that are shared and others that are opposed (Fisher & Ury, 2012, p. XXV). Negotiation is as much about a state of mind as it is a strategic choice for managing problems (Isenhardt & Spangle, 2000, p. 45).

So basically, negotiation is having an agreement with another person to obtain what both parties want, usually in a win-win outcome. According to Fisher *et al* (1993) the way you negotiate can make a difference between coming to terms or not or between an outcome that you find favorable and one that is merely acceptable (Cited in Isenhardt & Spangle, 2000, p. 45).

Negotiation is fundamental in every ADR process. All parties involved want a certain outcome which may not be possible and this is where negotiation can reconcile their desires. This is the only ADR that works in synergy with the other Alternative Dispute Resolutions.

3.5.4. Facilitation

Facilitator is the role of a person who serves as an impartial or neutral discussion leader, who guides a group through a specified set of procedures for the purpose of accomplishing a purpose or goal, and who enforces ground rules that manage verbal interactions between group members (Isenhardt & Spangle, 2000, p. 107). Harvard professor Roger Porter (1980) describes this role as an honest broker, someone who guarantees that the process is fair and does not disadvantage spokespeople with different perspectives (Cited in Isenhardt & Spangle, 2000, p. 107). A facilitator's job is to help the group have a productive meeting, according to Carpenter and Kennedy (1988). A facilitator is an impartial process guide who is responsible for managing the discussion so that parties can focus their attention on substantive issues and achieve their goals (Cited in Isenhardt & Spangle, 2000, p. 105).

3.5.5. Conciliation

Conciliation is defined as a consultative, voluntary and confidential process in which an independent third party, called a conciliator, actively assists the parties in their attempt to reach a mutually agreement to resolve their dispute” (Law Reform Commission, 2010). The Workplace Relations Commission (WRC, Workplace Relations Commission) defined conciliation “as a voluntary process in which a professional facilitator assists employers and employees to resolve disputes when their own unassisted efforts have not succeeded.”

Conflicts can be resolved in so many ways. Some will escalate into lawsuits and be heard in court. Others will be settled either before or after a lawsuit is begun. Still other cases are resolved through Alternative Dispute Resolution (Counoyer, et al., 1999).

3.6. Legal Disputes in the Hospitality Industry

A dispute is a product of unresolved conflict. Conflict can simply be viewed as the result of the differences which make individuals unique and the different expectations individuals bring to life. While conflict is inevitable, disputes need not be (Law Reform Commission, 2008). A dispute is defined as “a conflict that has reached a point where the parties are unable to resolve the issue by themselves due to a breakdown in communication and normal relations are unlikely until the dispute is resolved” (Cahn & Abigail, 2014, p. 230). Authors Ramsbotham, Woodhouse and Miall (Cited in Kriesberg & Dayton, 2017, p. 2) defined conflict as “the pursuit of incompatible goals by different groups.”

Legal disputes in the hospitality industry can be related to a number of factors, including serving alcohol to the underaged or to someone who is obviously incapacitated in some way through intake of excessive alcohol, not following prevention measures such as placing yellow warning signs on wet floors, breach of contract, overbooking, damage, injuries and/or accidents. According to Robert James, founder of one of the largest hotel contract management companies in the United States, he

once estimated that 60 to 70 percent of the decisions he made on a daily basis involved some type of legal dimension (Barth, 2009, pp. 2,3).

3.6.1. Accidents

Hospitality managers provide guests with food and beverage, accommodation and entertainment. Yet the process of providing these goods and services can place a business in potential jeopardy. The adage “accidents can happen” today can be extended to “accidents can happen, and if they do, the affected parties may sue” (Barth, 2009, p. 268). According to Cournoyer *et al* (1999, p. 105) guests at a hotel can injure themselves in so many ways. One might trip in the dining room. Another might suffer burns from scalding water in a shower. Yet another might drown in the pool. Barth (2009, p. 293) states that large numbers of slip and fall accidents, both inside and outside hospitality facilities, are litigated annually. The resulting judgments against hospitality companies can be costly. However, you can help protect your operation against slip and fall and other accident claims, if you take the necessary steps to maintain your physical facility, implement effective operating policies and procedures, and document your efforts (Marshall, 1999).

Furthermore, hospitality operations must continue to undertake serious prevention efforts, and at the same time be prepared as in real life, accidents do happen (Barth, 2006, p. 252) and when accidents do occur, you must be prepared to act in a way that serves the best interest of both your company and the injured party (Barth, 2009, p. 274). In his book *Accident Prevention for hotels, motels and restaurants* (Van Nostrand Reinhold, 1991), Robert L. Kohr states that the first 15 minutes following an accident are “critical” in eliminating or greatly limiting your legal liability. Experience shows this to be case. It is your job to know what to do – and just as important, what not to do - during this critical time period (2009, p. 274). According to Barth (2006, p. 252) the steps taken the first few minutes after an accident can be crucial in minimizing the negative impact of a potential claim.

3.6.2. Negligence

Negligence is the breach of a legal duty to act reasonably that is the direct cause of injury to another. In nonlegal language, negligence is carelessness that causes harm (Cournoyer, et al., 1999, p. 106). According to Barth (2006, p. 243) a person who has not used reasonable care in a situation is deemed to have been negligent. In other words, if the cause of a hotel guest's injury was the carelessness of an employee, the hotel will be liable to the guest. Manager and employees of hotels should strive to act reasonably in the way they perform their duties in order to avoid liability for negligence (Cournoyer, et al., 1999, p. 106). In words of Dallas (2011, p. 207) negligence requires a hotel to act reasonably to prevent foreseeable injuries to guests and visitors. For example, a facility that serves alcohol to a person who is obviously intoxicated guest could be sued for negligence if harm came to the guest (Barth, 2009, p. 342).

3.6.3. Overbooking

Overbooking is the accepting of more reservations than there are rooms available and is a standard practice in most hotels. This is done to compensate for the percentage of no-shows, cancellations and late departures which regularly occur (Baker, et al., 2000, p. 136). However, if the expected no-shows do appear, the hotel will not be able to accommodate everyone. For those the hotel cannot accommodate, the hotel will be in breach of contract and liable for damages (Cournoyer, et al., 1999, p. 82). This means that the would-be guest who is denied a room because the hotel has overbooked is entitled to collect compensatory damages (Cournoyer, et al., 1999).

The hotel reservation, once made and confirmed, is valid and binds the hotel to provide accommodations (Cournoyer, et al., 1999, p. 82). According to Baker *et al* (2000, p. 138) this may be done by locating the guest at another hotel of the same or a better standard, paying for transportation costs to the other hotel, and paying for any meals which may be included in the original hotel package and any increased room charge at the alternative hotel.

3.6.4. Breach of Contract

If a contract's terms are broken, and the contract is enforceable, the consequences can be significant. The plaintiff can pursue a variety of options when it is clear that the other party has breached a contract (Barth, 2006, pp. 47,48). Cournoyer *et al* (1999, p. 78) explain that the breaching party may be required to pay compensatory damages to the other contracting. Compensatory damages refer to the sum of money necessary to cover loss incurred by the non-breaching party as a result of the breach. Despite these measures, the hotel guest can still sue for breach of contract, and the inconvenience which it has caused (Baker, et al., 2000, p. 138).

Hilliard (2002, p. 12) states that a dispute resolution clause is “an effort by the parties to decide how a contract dispute will be resolved before it occurs.” Therefore, the increased use of written documentation would effect a significant reduction of disputes regarding hotel-guest contract terms (Barth, 2006, p. 31).

3.7. Prevention

It's important that the hospitality industry ensure their workplace is safe. The optimum system of avoiding accidents, lawsuits, and penalties is by adopting a philosophy of preventative management. Where worker safety is important, this may be as simple as providing information or as complex as developing a training program (Barth, 2006, p. 121). According to the Cambridge Dictionary, prevention is defined “as the act of stopping something from happening or of stopping someone from doing something” (Cambridge Dictionary).

One example of how to prevent accidents and avoid a lawsuit for negligence expressed by Marshall (1999, p. 10) suggests that hoteliers should inspect areas where taxis pick up and discharge passengers. They also should have warnings placed where people need to avoid tripping over curbs. Some hotels use signs as “Watch Your Step”. Others simply paint them heavy yellow. The best recommendation is to do both. Further examples of such signage would be relating to food allergies

on the buffet area and on the menus, the “very hot water” sign on the coffee machine and “watch your head” where necessary.

Despite all the careful planning, preparation, and prevention, guests can still be seriously injured on your company (Barth, 2009, p. 273). That’s why safety should be one of your major concerns. All policies, procedures and maintenance programs should be geared towards providing an environment that maximizes guest safety and security (Barth, 2009, p. 295). An effective dispute resolution program should give your hotel a one/two punch in the prevention of litigation (Barth, 2002). Dallas (2011, p. 207) states that the only way to protect a hotel company from a lawsuit is to practice prevention.

3.8. Conclusion

The literature review provides us with a full understanding of the operation management of the hotels, explains the basis of hotel management, how this industry deals with basic complaints, the importance of handling complaints, what is considered legal disputes in this industry and why prevention is so important. Also, ADR and the different types of Alternative Dispute Resolutions are explained.

As a conclusion, the literature indicates that Alternative Dispute Resolution is not utilized as much in this industry as litigation. Even though, ADR has started to be used as an alternative to resolve conflicts in other companies and in relation to family law, it appears that hoteliers are not totally convinced.

The purpose of this research is find out if Alternative Dispute Resolution is currently used in the hospitality industry to resolve legal disputes with their guests and have a deeper understanding of the prevention measures that they are performing to avoid accidents, as much as possible, in the hotels. According to the literature review, prevention is so important that the input of much work is essential in order to have a fully trained staff prepared to handle future disputes and provide appropriate resolutions where possible.

Chapter 4 – Research Methodology and Methods

4.1. Research Design

According to Kerlinger (1986), a research design is a plan, structure and strategy of investigation so conceived as to obtain answers to research questions or problems (Cited in Kumar, 2011, p. 95). Saunders *et al* (2016, pp. 163,164) explains that a research design is the general plan of how you will go about answering your research question. It will contain clear objectives derived from your research question, specify the sources from which you intend to collect data, how you propose to collect and analyse these, and discuss ethical issues and the constraints you will inevitably encounter.

However, before we get to the central point of the research there are important layers of what is referred to as “the onion” that need to be peeled away in order to design the research methodology (Saunders, et al., pp. 83,84). Illustrated below is a figure of the research onion developed by Saunders, Lewis and Thornhill.

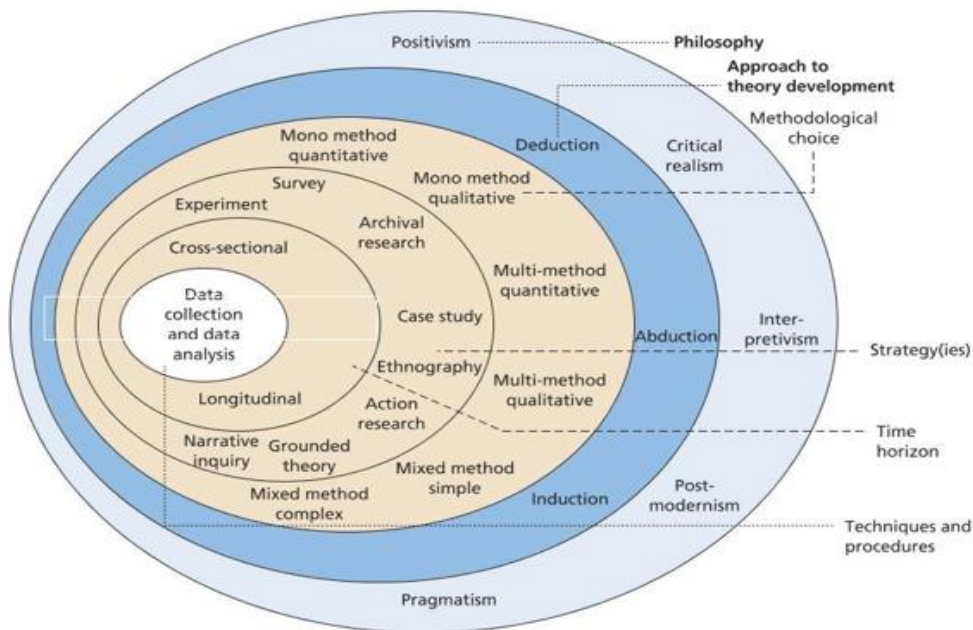


Figure 2. The research “onion” (Saunders, et al., 2016).

4.2. Research Philosophy

The term research philosophy refers to “a system of beliefs and assumptions about the development of knowledge. Although this sounds rather profound, it is precisely what you are doing when embarking on research: developing knowledge in a particular field” (Saunders, et al., 2016, p. 124). Furthermore, there are five different views of research philosophy, better known as positivism, critical realism, interpretivism, postmodernism and pragmatism.

The research philosophy that is applied here is Interpretivism. According to Saunders *et al* (2007, p. 106) “Interpretivism is an epistemology that advocates that it is necessary for the researcher to understand differences between humans in our role as social actors. The metaphor of the theatre suggests that as humans we play a part on the stage of human life.” According to Pham (2018, p. 3) interpretivists adapt a relativist ontology in which a single phenomenon may have multiple interpretations rather than a truth that can be determined by a process of measurement. Saunders *et al* (2016, p. 140) states that the purpose of interpretivist research is to create new, richer understanding and interpretations of social worlds and contexts.

The Interpretivism approach is suitable for this research as it is essential that we understand human behavior and are aware that every person is different and acts in different ways, so one thing can have multiple meanings.

4.3. Research Approaches

There are three main approaches: deductive, inductive and abduction. According to Saunders *et al* (2007, p. 117) deductive approach is when you develop a theory and hypothesis and design a research strategy to test the hypothesis whereas inductive approach is when you collect data and develop theory as a result of your data analysis. Abduction approach is when you are collecting data to explore a phenomenon, identify themes and explain patterns, to generate a new or modify an existing theory which you subsequently test through additional data collection (Saunders, et al., 2016, p. 145).

Regarding the above explanation, the research approach that suits in this situation is the inductive approach as the purpose here would be to get a feel for what is going on so as to understand better the nature of the problem (Saunders, et al., 2007, p. 118). Also, with the data collection it would be possible to achieve an outcome which could be used as a way to answer the research question. According to Potter (2009, p. 117) the inductive position is characterized by “a belief that everything within the topic area should be gathered as evidence and nothing should be ruled out. Once all the data that available has been gathered, the researcher leaves the observation site and begins to analyze the evidence.”

4.4. Methodological Choice: The use of Quantitative, Qualitative or Mixed Methods

Authors such as Saunders, Lewis and Thornhill state that one way of differentiating quantitative from qualitative is to distinguish between numeric data and non-numeric data (2016, p. 165). Quantitative is predominantly used as a synonym for any data collection technique or data analysis procedure that generates or uses numerical data. In contrast, qualitative is used predominantly as a synonym for any data collection technique or data analysis procedure that generates or uses non-numerical data (Saunders, et al., 2007, p. 145). Mixed methods is the general term for when both quantitative and qualitative data collection techniques and analysis procedures are used in a research design (Saunders, et al., 2007, p. 145).

However, J. A. Anderson (1987) states that qualitative researchers do not begin with a theory or hypotheses. Instead, they begin with a natural curiosity to learn more about the who, what, when, where, why, and how of something (Cited in Potter, 2009, p. 117).

As this research is based on people’s experience, it is important to make use of the interviews as a tool to collect data and according to the interviewee’s answers, having a full understanding of the problem. So, the methodological choice that is more suitable to this research is qualitative as this

methodology gives us a more complete knowledge of the entire situation from the perspective of the people who are involved.

4.5. Research Strategies

Denzin and Lincoln (Cited in Saunders, et al., 2016, p. 177) defined research strategy as a plan of how a researcher will go about answering her or his research question. It is the methodological link between the investigator's philosophy and subsequent choice of methods to collect and analyse data. The research strategies include experiment, survey, archival and documentary research, case study, ethnography, action research, grounded theory and narrative inquiry.

Even though there are various choices of strategies to use, this researcher will utilize the interview as a tool to get the information necessary to find out the answer to the research question. According to Burns (Cited in Kumar, 2011, p. 137), an interview is a verbal interchange, often face to face, though the telephone may be used, in which an interviewer tries to elicit information, beliefs or opinions from another person. Furthermore, Saunders *et al* (2007) believe that the use of interviews can help you gather valid and reliable data that are relevant to your research question and objectives.

The three types of interviews, structured, semi-structured and unstructured are of relevance in this research. Having as a difference that in a structured interview the researcher asks a predetermined set of questions, using the same wording and order of questions as specified in the interview schedule and the unstructured interviews is the almost complete freedom they provide in terms of content and structure (Kumar, 2011, pp. 137,138). Semi-structured interviews, however, allows the researcher to have a list of themes and questions to be covered which may vary from interview to interview. This means that you may omit some questions in particular interviews, the order of questions may also be varied depending on the flow of the conversation and additional questions may be required to explore your research questions (Saunders, et al., 2007).

With the above explanation of the types of the interviews taken into account, the most appropriate for this research is a semi-structured interview as this topic needs to be focused on different points and it is necessary to have all the questions written down so every issue will be covered, but also this approach gives the researcher the freedom to formulate extra questions related to any of the answers made by the interviewee, as a way to have a full understanding of the topic.

4.6. Time Horizons

According to Saunders et al (2007) “the time horizon is the time framework within which the project is intended for completion.” There are two types of time horizons, longitudinal and cross-sectional. A Cross-sectional study is extremely simple, you decide what you want to find out about, identify the study population, select a sample and contact your respondents to find out the required information (Kumar, 2011, p. 106). Authors such as Saunders *et al* (2009, p. 155) describe cross-sectional as the study of a particular phenomenon at a particular time and longitudinal is the capacity that it has to study change and development.

The time horizon that matches with this research is cross-sectional as we do not want to compare changes from the past to now, we focus on a particular phenomenon at a particular time.

4.7. Ethical Research

Research ethics is defined as the appropriateness of the researcher’s behavior in relation to the rights of those who become the subject of a research project, or who are affected by it. Saunders and Lewis (2012) explain that:

Ethical considerations impact on how to decide upon the research topic; design the research and gain organizational and respondent access; collect data; process and store data, analyse data and write up research findings. At all these stages the researcher will need to ensure that the way the research is designed is both methodologically sound and morally defensible to all those who are involved (p. 75).

According to the Collins Dictionary (1979), ethical means “in accordance with principles of conduct that are considered correct” (Cited in Kumar, 2011, p. 217).

One important aspect in this research is the confidentiality of the participants, in this case the interviewees. Confidentiality refers to a duty of an individual to refrain from sharing confidential information with others, except with the express consent of the other party (2015). According to Saunders & Lewis (2012, p. 77) it is often more important to guarantee confidentiality to the participants in relation to their names, addresses and personal data which may allow them to be identified. Also, it is important to explain to them the purpose of your research project, state how they will be able to help your study, and provide assurances about confidentiality and anonymity. This may involve writing to your intended participants or talking to them (Saunders, et al., 2007, p. 176). The participants of this research are aware that their names and the names of the companies they mentioned during the interview will remain confidential. Even though, the participants did not sign any consent form they were informed and they agreed that the interview will be retained on audio-recorder, that they are entitled to withdraw at any moment if they do not feel comfortable with the interview, that they can avoid answering any of the questions and, also that their personal information will be anonymous.

The interview main questions (Appendix B) and the process of the interview were discussed in advance and approved by the researcher’s supervisor. Also, the Application for Ethical Approval (Appendix A) was completed. This form includes all the ethical issues which must be taken into account. According to this document, the research has not significant ethical implications.

4.8. Limitations of the Research

It is important to mention the limitations of these studies. Like any other research project this study had some limitations.

Libraries and colleges were closed due to the Covid-19 so all literature review was restricted to the books and articles found online. Even though the researcher had access to the college platform, this proved to be a limitation as a wider range of literature on the topic in question to support this research, was not available.

A further limitation, also due to the Covid-19, was that hotels were closed. Therefore, it was not possible to include more hotels in this research. The interviews were conducted with back office line from three different hotels whereas the ideal would have been to include five hotels as a reference which would have provided a wider range of data and varying points of view from the general managers, as every hotel has different procedures.

The third limitation, again due to the Covid-19 lockdown, meant that it was not possible to conduct the interviews face to face. Conversations were by way of phone calls. Even though, the information collected were of high value, observation of the body language of the interviewees was obviously not possible.

Finally, the Covid-19 lockdown forced meetings with the researcher's supervisor to be conducted via phone call or by email. This researcher has found in her experience that meetings in person are more effective.

Chapter 5 – Presentation of Data

The focus of data collection is to understand what is happening in each critical case so that logical generalisations can be made (Saunders, et al., 2007, p. 232). According to Saunders *et al* (2007, p. 206) it would be impracticable to collect data from the entire population, selecting a sample is necessary. This will be equally important whether planning to use interviews, questionnaires, observation or some other data collection technique. Even though there are many techniques to collect data, interviews were chosen as the method for developing this thesis. This form of qualitative studies was considered to be the most appropriate and effective for the purpose of this research.

Prior to collecting data, the researcher received approval from her supervisor. Upon completion of data collection, consent was gained from the participants who agreed to be part of this study. The interviewees comprised of seven professionals with hospitality industry background. They are working in the position of General Managers and Duty Managers in three different hotels located in Dublin, Ireland and have between them 20 years of experience in the hospitality sector. The purpose of this exercise was to gather information from the back office line as these are the staff who handle legal disputes with guests and are in charge of prevention measures in the hotel. They are also responsible for training of relevant staff in these matters and represent their companies in cases of legal action.

As a qualitative result was sought in this research, interviews were conducted using a semi-structured strategy. This strategy provides the opportunity to ‘prove’ answers, where the researcher wants interviewees to explain, or build on their responses. This is important when adopting an interpretivist epistemology, where the researcher is concerned about understanding the meaning that respondents ascribe to various phenomena (Saunders, et al., 2007).

Specifically, the researcher selected the date of April 10, 2020 as the date to start with the interviews, which were conducted via phone call. As mentioned previously, the interviewees did not sign a consent form. The researcher commenced the interview by explaining the ethical issues to the

participant, reminding them of their rights in the process. This was followed by participants being asked to give the job position and a brief history of their time in the hospitality industry to demonstrate the participant's experience in this sector. The interviews covered a range of topics such as prevention of complaints in the hospitality industry, training of the staff, legal disputes resolution, handling of complaints and Alternative Dispute Resolution.

At all times, the interview was just between the researcher and the participant. The interviews were audio-recorded and lasted between 10 and 20 minutes, depending on the length of answers from the participant. When the interview was completed, the researcher started the transcription of the interview with the support of an application called "otter". This app records the interview while transcribing into text. This proved of invaluable support to the researcher. The transcription was diligently revised by the researcher to ensure that the words matched with the audio as this app is not 100% accurate and the accent of the different participants might not be detected entirely correctly by the app.

Chapter 6 – Data Analysis & Findings

The objective of data analysis is to assess and discuss the answers received from the interviews in order to interpret the results and to answer the main research question. According to the SAGE Encyclopedia of Action Research (2014), data analysis refers to “the processes associated with surface meaning and understanding from the various data sets that may be collected during the action research project as a basis for further action and theory building.”

As mentioned in chapter 4, the research is completed using a qualitative method. According to Saunders *et al* (2007, p. 470) qualitative data refers to all non-numeric data or data that have not been quantified and can be a product of all research strategies. It can range from a short list of responses to open-ended questions, in an online questionnaire, to more complex data, such as transcripts of in-depth interviews or entire policy documents.

This chapter intends to present the results obtained by the data collection method obtained from the interviews. Kumar (2011, p. 248) explains that there are three ways in which you can write about your findings in qualitative research:

- (1) developing a narrative to describe a situation, episode, event or instance;
- (2) identifying the main themes that emerge from your transcription of your interviews and writing about them, quoting extensively in verbatim format; and
- (3) in addition to (2) above, also quantify the main themes in order to provide their prevalence and thus significance.

Therefore, the most effective approach for explaining the data is a combination of point one and point two. To gain a deep understanding of the phenomena and acquire a full picture of how the hospitality industry is operating, it is necessary to use a narrative analysis. This form of analysis allows the researcher to introduce the data collected from the interviews. Furthermore, it is essential to quote the most significant information given by the interviewees to answer the main research question and

interpret the answers of the participants. Also, it aids the clarification of the aims and objectives proposed in this research.

Allen (2017) describes narrative analysis as “a genre of analytic frames whereby researchers interpret stories that are told within the context of research and/or are shared in everyday life.” Saunders *et al* (2007) recommends that the data that you have collected will probably need to be grouped into categories before they can be meaningfully analysed. Also, Saunders *et al* (2007, p. 480) explains that the identification of these categories will be guided by the purpose of the research as expressed through the research question and objectives.

This research analysis is divided into 4 categories, prevention, training, legal disputes and Alternative Dispute Resolution (ADR). These categories were selected according to the aim and objectives proposed in the research project. These groups allow the researcher to explore and explain each answer collected to the interviewees’ question by question and give a full analysis and comparison between the data and the literature review.

Illustrated below is a table of the four categories analysed.

CATEGORIES	QUESTIONS
Prevention	<ol style="list-style-type: none"> 1. What does the hotel do to prevent accidents and preserve the safety of the guest and the staff? 2. If there is an accident in the hotel where a guest is involved, how will the company manage the incident to prevent a lawsuit?
Training	<ol style="list-style-type: none"> 1. Who is responsible for the training of the staff? 2. Does the interviewee consider that the staff of the hotel is fully trained to handle any kind of incidents occurring in the hotel?
Legal Disputes	<ol style="list-style-type: none"> 1. What types of disputes related to guests are the most common in the hotel?

	<ol style="list-style-type: none"> 2. Has the company had any legal dispute with a guest? 3. Has there been any legal action due to a mistake in a reservation or for overbooking? 4. Has there been any legal action for negligence from staff? 5. Has there been any legal action for breach of contract with a guest? 6. Has the interviewee experience of any situation where a guest has been injured in any of the hotels where they worked?
<p style="text-align: center;">Alternative Dispute Resolution (ADR)</p>	<ol style="list-style-type: none"> 1. Is the interviewee familiar with Alternative Dispute Resolution (ADR)? 2. Has the company used ADR to resolve any disputes? 3. In the interviewee’s opinion, is ADR a good way to resolve disputes instead of litigation?

Table 1. Questions divided by categories.

6.1. Participant Narratives

The purpose of this research was to understand and explore if the hospitality industry is currently using Alternative Dispute Resolution (ADR) to resolve legal disputes with their guests and to assess how they are preventing future disputes. To achieve this, the researcher interviewed professionals with hospitality industry background who hold specific positions in the company, such as General Managers and Duty Managers.

For the purpose of this investigation, 8 people in total were approached for interviews. However, one of the interviews was omitted due to the participant declining to be audio-recorded. In response to this, the researcher decided to exclude this participant from the research as the audio-recording was

vital for the authenticity of the interview. Therefore, the researcher was unable to include the information provided in this research.

The interviews comprising of a questionnaire as described in chapter 5, covered a range of topics such as prevention of occurrences likely to lead to complaints and/or legal action in the hospitality industry, training of staff, legal disputes resolution and handling of complaints and Alternative Dispute Resolution. By interviewing each participant and discussing these topics, it became evident that although participants shared opinions regarding some of the questions, their actual experience differed when it came to guest relationships within the hospitality sector. When taking into account the length of time participants has been working in this industry, it is worth noting that just four of them had experienced a legal action concerning their guests.

6.2. Category 1: Prevention

The first category is focused on prevention of occurrences likely to lead to complaints and/or legal action in the hospitality industry, its procedures and the importance of prevention in this industry. In basic terms, managers explain the procedures that they follow in the hotels that they manage. According to the literature described in chapter 3, prevention is defined as *“the act of stopping something from happening or of stopping someone from doing something”* (Cambridge Dictionary). During the data analyses, the researcher noticed the similarity of the answers regarding each of the participants relating to prevention and safety. Based on the interviewees’ answers, it is possible to gauge the importance of implementing prevention procedures in the hospitality industry. Every hotel has their own procedures but most of these do not differ from each other as their target is based on health and safety, risk assessments and identification of future hazards. It is obvious that the appropriate training is vital to prevent all forms of disputes. These procedures assist in enabling hotel staff to ensure safety precautions and avoidance of accidents as much as possible. As interviewee G

(G, 2020) said “...accidents still happen but you can reduce the number of these accidents in a hotel if your prevention is in place.”

The first point to analyse is what actions are taken by the hotel to prevent accidents and preserve the safety of the guests and the staff?

Interviewee A (A, 2020)

“...in the companies I’ve worked for, they’ve had a group of wide structures from health and safety. So, you have risk assessments, health and safety SLP’s, audits from food safety authorities, audits from risk management. You combine advice from your insurance company with the advice of the industry professionals in the fields of health and safety to come up with procedures that keep all of your team members and all the members of the public safe on a day by day basis.”

Interviewee B (B, 2020)

“...all of the people who work in hospitality in our hotel receive training to preserve the safety of the guest.”

Interviewee C (C, 2020)

“...the hotel has a lot of safety guidelines in place through training our staff, audits, safety equipment and group training.”

Interviewee D (D, 2020)

“...each department would have their own risk assessment and the Head of Departments along with HR and support the senior management team will put those risk assessments together. So, we look and analyse where dangers would present themselves to either the employees themselves or to customers within the building and then we put different scenarios together to prevent how those issues would happen and training on how to deal with [...] and obviously provide safety.”

Interviewee E (E, 2020)

“...there’s a lot of policies. Within the kitchen you have hazard plans [...] a lot of hotels as well would have to abide by health and safety regulation as well. The things that we will be dealing with would be fire safety.”

Interviewee F (F, 2020)

“...given that the hotels are prone to be sued a lot, attention to guest and staff safety is one of the biggest priorities of the hotel on their own everyday basis.”

Interviewee G (G, 2020)

“...the hotel has their own safety management program. Our approach is based on hazard identification, risk assessment and implementation of control measures to eliminate or at least reduce the risk of accidents to an acceptable level.”

As we have seen, prevention is the key in this industry in order to avoid incidents as much as possible but as the saying goes, accidents happen. So, it is important to know how to act when these incidents take place. As was mentioned in the literature review *“...the steps taken the first few minutes after an accident can be crucial in minimizing the negative impact of a potential claim”* (Barth, 2006). Also, by the time the guest takes his/her leave, it is important that relations aren’t strained. Interviewee F (F, 2020) states *“...the hotel or the relevant manager who is looking after the situation is trying to make sure that the guest walks away from that situation not feeling like they would like to sue.”*

One of the most important steps when an accident happens is to follow the protocol. Interviewees explained the following:

Interviewee A (A, 2020)

“...we would have a Duty Manager that is trained in handling accidents and incidents who would sit with the customer and fill out all the paperwork. They’d offer first aid to the customer [...] you take photographs, you would take statements from your colleagues that were working that day who might have seen the incident, you record, take downloads of CCTV footage [...] do whatever you can to get an image of what exactly happened.”

Interviewee B (B, 2020)

“...usually we offer them something, some rewards [...] So, we tried to finish the conflict in the best way especially for the guest and for the hotel.” Also, she expressed that *“...when something happened in my shift, I’m trying to be sure that if something happened the guest is fine and we offering all the assistance possible.”*

Interviewee C (C, 2020)

“...if the person needed first aid, we will supply first aid on the spot and bring an ambulance if it is required [...] filling out reports, an accident/incident records, witness statements, how that happened and obviously that’s kept and then sent to our solicitors or GM or HR departments.”

Interviewee D (D, 2020)

“...calling medical assistance if it is required, we will fill an incident report form to make sure we have all the correct information and witnesses would provide statements and then that’s immediately sent to our solicitors.”

Interviewee E (E, 2020)

“...first aid should be administered straight away. You take all the details, an ambulance should be called if they need [...] during that time every detail should be taken of the guest, there should be an account taken of what happened.”

Interviewee F (F, 2020)

“...each hotel has a procedure in place which the main goal of this is to make sure that the guest is fine.”

Interviewee G (G, 2020)

“...recording the incident is a very important part and on the other hand, obviously the team must look after the guest in the best possible way. So, the guest feels that they are cared for and a very important thing, a follow up call following the issue.”

Also, it is important to mention “...when an accident happens everyone must remain calm and they have to follow procedures in a friendly but professional manner” (G, 2020). According to Interviewee E (E, 2020) “...they need to have your full confidence that you know what you are doing. You need to be quite understanding about the situation [...] that you are going to remedy it as quick as possible and for the benefit of the guest that this has happened to.”

According to these answers we can summarize the protocol in the following manner:

- ensure that the guest is in feeling well and look after him/her;
- apply first aid to the injured guest and call the ambulance if necessary;
- fill out the incident report with all details as quickly as possible to get a full picture of the incident;
- take photos of the place where the accident happened;
- it is essential to take witnesses’ statements together with written details from the staff who might have seen anything relating to the incident;
- include the CCTV footage as evidence;
- send all information gathered to the hotel’s solicitor as soon as possible; and
- follow up contact with the injured guest over the following days.

These steps are necessary for two reasons:

- (1) to avoid a legal action from the injured party. If the guest feels that the hotel cares about them, they might choose to overlook the incident and not take legal action against the hotel;
- (2) in case the guest decides to sue the hotel. If the guest pursues the legal route, the hotel has enough information to defend itself.

In the words of Interviewee A and Interviewee G:

“...file all your paperwork accordingly and have it all prepared for the legal team. Whenever the time comes, they will have to defend us and then you go from there” (A, 2020).

“...provide as much information as you can for the legal team and for the insurance company to be able to protect you” (G, 2020).

6.3. Category 2: Training

As we have seen in category 1, training is a fundamental part of the hospitality industry. Training is as important as prevention itself. The General Managers and Duty Managers are conscious of the necessity to have their staff instructed efficiently. Well trained staff are prepared for future disputes and have the tools required for problem resolutions in the best way possible. This consequently can aid in avoiding legal conflicts with their guests.

When the researcher asked the interviewees about training, they had the following responses:

Interviewee A (A, 2020)

“...nobody starts working for the group that I currently work for unless they’ve completed manual handling training.”

Interviewee B (B, 2020)

“...every department needs to follow a training [...] first theoretical and then practical.”

Interviewee C (C, 2020)

“...we have a lot of training implemented, which is alcohol, tobacco training, customer service training.”

Interviewee D (D, 2020)

“...there is a lot of training involved in prevention and risk assessments within each area of the hotel.”

Interviewee E (E, 2020)

“...a lot of it will be done in the training [...] health and safety training, as soon as you start in any hotel you should be doing induction training.”

Interviewee F (F, 2020)

“...each hotel is trying their best to make sure that everybody is trained as quickly as possible.”

Interviewee G (G, 2020)

“...all staff are trained and this training is part of their departmental SLP training [...] at the company induction every new employee received basic fire training, manual handling and basic food and safety training.”

When taking the above responses into account, it is evident that the companies invest a lot of time in training. None of the team members of the hotels are permitted to start working until they have acquired basic training. Also, from the time the employees start work in the company, they are continuously being sent on refresher courses. Interviewee A (A, 2020) explained *“...if there’s something that is relevant to your job in terms of the safety of customers or the safety of the staff, you are trained in it and signed off on it when you start and then you are given refreshers as the years go by whenever refreshers are required.”*

The following question regarding training is: who is responsible for the training of the staff?

Interviewee A (A, 2020)

“...the responsibility lands on the General Manager’s head eventually and it’s their responsibility to have the right Human Resources people in place and the right Head of Departments across the hotel.”

Interviewee B (B, 2020)

“...the former manager but we also need to take care everybody is following the instructions we gave to them.”

Interviewee C (C, 2020)

“...training I suppose in our hotel is done on different levels, though our department managers will be responsible for training their individual departments but also the HR departments in consultation with group training level.”

Interviewee D (D, 2020)

“...everybody is responsible, I would say that the training of the teams themselves comes from either, or could be, an external trainer, HR, the Heads Departments, supervisors, Duties Managers, myself, Deputy GM’s, specialists.”

Interviewee E (E, 2020)

“...your line manager. So, if you are in Food and Beverages, it should be a Food and Beverage Manager.”

Interviewee F (F, 2020)

“...the line manager or supervisor [...] when it comes to more complex training like manual handling or fire safety, health and safety in general, then that needs to be either somebody who is certified whether in house or it needs to be outsourced to specialized companies.”

Interviewee G (G, 2020)

“...fire training, emergency procedures, evacuation plan and specific training, basically for each department carried out by each duties and training supervisor. We also use the [Name of the hotel group] trainers for different training.”

In respect of the information above, it is evident that the main responsibility for training lies with the Head of the Departments such as General Managers, Front Office Managers, HR, F&B Manager, among others. They work in synergy with the [Name of the hotel group] group, which provides more value to the training. However, it is important to highlight that external trainers are used to manage more complex training.

In relation to this, the researcher found it important to ask if the interviewees believe that the staff members of the hotel are fully trained to handle the variety of incidents that may occur. The answers are detailed below:

Interviewee A (A, 2020)

“...not all the staff. The management team or the Duty Managers or the most senior people that are responsible for whatever shifts they are on would be trained, yes.”

Interviewee B (B, 2020)

“...we are training in imaginary situations, not real... fictional ones and then when we face the real situations, of course, not all of us are ready for that.”

Interviewee C (C, 2020)

“...our training is already standard and on a good level to deal with any incidents than may or may not occur in our hotel.”

Interviewee D (D, 2020)

“...the frontline staff themselves will be trained to a certain degree and obviously there would be always a manager on duty or a supervisor who will be trained in when things escalated.”

Interviewee E (E, 2020)

“...I do believe, yes.”

Interviewee F (F, 2020)

“...you can pretty much never say that all staff is trained and everything because this training is pretty much ongoing.”

Interviewee G (G, 2020)

“...yes, I think definitely this is our target [...] our team is trained on a different level, when it comes to dealing with incidents, complaint handling training and empowerment are playing a big part of resolving the issues efficiently to our satisfactory level.”

According to these responses, it appears that the staff members are well trained but not all of them have the same training. So, basically when an accident happens, the main responsibility for handling this situation lies with the Duty Manager or Supervisor.

For the General Managers, training is fundamental for the safety of the guests and their staff. Handling complaints is one of the most important elements of training provided in the hotels, according to Interviewee G (G, 2020) *“...I don't think I can emphasize enough the importance of handling any incidents [...] how we handle them can have actually a very positive effect on our business, as in my*

opinion, it can create a trust towards the company and that's how you build loyalty with your customers."

6.4. Category 3: Legal Disputes

In words of Interviewee G (G, 2020) *"...the disputes in the hotel between the hotel and the guest are normally on a daily basis ..call it complaints."*

How the hospitality industry is resolving disputes with their guests has been the core purpose of this research project. But in order for the results to be adequately analyzed, it is important to learn which disputes occur the most frequently in the hospitality industry.

Interviewee A (A, 2020)

"...I would say most common ones would be a food safety issue [...] then alternatively for a safety issue, I would say theft of something from the room."

Interviewee C (C, 2020)

"...from a Food and Beverage background I suppose the most common one would be someone who doesn't like the food or the service [...] other issues related to rooms would be, I suppose, bookings or people not showing up and then being charged for the room."

Interviewee D (D, 2020)

"...the biggest issue would be if there was a slip and fall incident or if people are intoxicated and the dangers that might arise out of them not being fully aware of their surroundings."

Interviewee E (E, 2020)

"...slips, trips and falls will be the biggest issues that we will have."

Interviewee F (F, 2020)

"...it's probably injury [...] no matter if it was caused by an actual fault of the equipment or just negligence but I say it's usually a minor injury, there's almost never serious injuries."

Interviewee G (G, 2020)

“...you’d have food and beverage related complaints, you would have room related and also health and safety is normally the basic stuff. So, slips, trips and falls.”

When each manager’s answer was examined, it was evident that their experiences differed. The following question related to the managers’ experience regarding episodes where guests followed up the above mentioned complaints with suing the hotel.

Interviewee A (A, 2020)

“...I don’t know in all the cases the outcome but I have had to put information together and put reporting together to help the hotel defend themselves against claims.”

“...we had a customer who sued us to pay his medical bills because when he was getting into the lift, the lift door tried to close on him and injured his arm.”

Interviewee B (B, 2020)

“...tray with glasses fell on that person [...] my colleague of course apologized about that, the manager in charge apologized too, they spoke with that person. The person at that moment said everything was fine but after this event the person actually complained and sent a legal demand.”

Interviewee C (C, 2020)

“...there was an issue with a gentleman parking a car that he claimed that it was damaged by the hotel. It went to solicitors but luckily [...] it was proven the car was actually damaged before this. The case is closed basically.”

Interviewee D (D, 2020)

“...I have an ongoing one at the moment, where a guest said that the serving staff dropped a tray of drinks on them and they got cut by a piece of broken glass [...] that will go to court and hopefully the correct outcome will happen.”

Interviewee E (E, 2020)

“...I haven’t dealt with any as of yet.”

Interviewee F (F, 2020)

“...it was during Christmas time [...] this dance floor is not allowed to bring drinks and this guest did bring a drink, spilled her own drink and fell on that liquid and sued the hotel for it.”

Interviewee G (G, 2020)

“...a guest slipped in the bath and fell and basically injured his back [...] the insurance company followed up with the completed investigation and basically took over the case from there. It was settled outside court.”

“...a guest claimed that he had food poisoning in the hotel [...] the guest in this case reported the incident to the health department and when they were informed they followed up with an investigation, so they came out and they looked at the kitchen record, the cleanliness, the temperature record [...] we also contacted the staff that did the investigation and basically didn't go any further around the case.”

Out of the 7 interviewees, 6 have experienced a situation where the hotel had been sued or are currently in the process of a legal action. Therefore, it is understandable that the back office line places such emphasis on the effective training of staff for prevention and handling of complaints. However, despite the best efforts of staff when handling complaints, the guest may choose the option of suing the hotel as demonstrated in the example given by Interviewee D, *“...the guest in question did not leave or refused medical attention at the time but however, as with all these things the solicitor's letter did follow two months later, so we always have to be careful there”* (D, 2020).

6.4.1. Overbooking

Another common situation that happens frequently in the hospitality industry is in relation to overbooking. All the interviewees explained that overbooking is a strategy to make sure that the hotel is used to its full capacity. However, none of the participants suffered any legal action due to overbooking or any errors in making reservations.

Interviewee A (A, 2020) explained “...I think where you can cause a dispute with customers is if you start to lie to them, so I always told my front desk team to speak to the customer honestly, to act like an airline.”

Interviewee B (B, 2020) said “...it is true that we have overbooking... but not one which has gone the legal route.”

Interviewee C (C, 2020) states “...we have procedures in place for overbooking which happens quite often and most hotels do overbook to guarantee that they are full.”

Interviewee F (F, 2020) expressed “...that happens all the time and the hotels consider themselves lucky if they are able to be overbooking.”

Interviewee G (G, 2020) explained “...overbooking happens basically from time to time and what we will do is try to work it out, find a very similar property, probably close by the hotel and we will pay for anything extra, obviously complementary.”

6.4.2. Breach of Contract

According to the interviews, 2 of the 7 have experienced a legal action for breach of contract.

Interviewee A (A, 2020) explained “...we have, not related to an individual traveller but related to a group booking [...] it's quite often that people will threaten you with legal action if you don't refund their deposits, but I think the practice of our group is to ensure that our contracts are fair and that our contracts are adhered to on both sides.”

On the other hand, Interviewee D (D, 2020) shared “...I had a legal action in a previous hotel where they had requested and booked an accessible bedroom and they did not receive that bedroom and the guest obviously required those facilities. They had threatened legal action.”

6.4.3. Negligence

In regard to the interviews, only one interviewee has experienced a legal action for negligence on the part of her staff. As was mentioned previously, the Interviewee D (D, 2020) expressed “*...I have an ongoing one at the moment where a guest said that the serving staff dropped a tray of drinks on them and they got cut by a piece of broken glass [...]that will go to court and hopefully the correct outcome will happen.*”

On the other hand, Interviewee A shared his experience of legal action for negligence but it was regarding a dispute between the hotel and some of its employees.

“...we had team members who claimed that they were not trained properly in manual handling and another team member who claimed that they weren’t given appropriate protective equipment to do their job [...] they had back pain and a rash on their skin” (A, 2020).

“...she claimed that the hotel was a bit negligent with her personal information and wasn’t protecting her enough” (A, 2020).

Besides negligence where a guest can be injured, another form of negligence can be regarding the care of guests’ belongings. Interviewee B related a situation where “*...one guest reported that the luggage she had was fine when they arrived to the hotel but the moment the concierge arrived to the room with the luggage, the luggage was broken*” (B, 2020).

6.4.4. Accidents

Accidents are one of the most common disputes that occur in the hospitality industry. As stated in the literature review “*...guests at a hotel or restaurant can injure themselves in many ways*” (Cournoyer, et al., 1999) “*...and if they do, the affected parties may sue*” (Barth, 2009). The interviewees shared their experiences where a guest had been injured at the hotels where they have worked.

Interviewee A (A, 2020)

“...I’ve had some minor injuries and some pretty large injuries [...] one of the parts of running a hotel is that with so many people coming through your doors every day, someone’s going to get injured at some point.”

“...most common ones would be people slipping in the bath or people slipping in the bathroom or somebody falling over in your bar restaurant when they’ve had a few too many drinks.”

And once again *“...when he was getting into the lift, the lift door tried to close on him and injured his arm.”*

Interviewee B (B, 2020)

“...one guest fell from one chair [...] I apologized for the situation. He said to me he was completely fine, that I don’t need to be worried about him because everything was fine and I filled one report like I’m taking care of him.”

Interviewee C (C, 2020)

“...happens quite regular [...] we have had guests that have had a heart attack, a guest who had fallen in a shower and maybe at a party being a little bit drunk and twisted their ankles wearing stilettos for women. We can deal with that on a weekly basis.”

Interviewee D (D, 2020)

“...whenever you have a pool area there is always a danger of slip and fall [...] and then obviously whenever people have been served food and beverages especially. There is also a danger of broken glasses or slips and falls due to spillage and so on.”

And once again *“...a guest said that the serving staff dropped a tray of drinks on them and they got cut by a piece of broken glass.”*

The interviewee E hasn’t experienced any situation where a guest has been injured but he related a complaint from a guest who has a disability and who could have been injured for the lack of a slip mat in the shower.

“...he had a disability and he had a lot of different issues about the height of the bed in the hotel for him to get in and out. The shower hadn't had the slip mat. He nearly fell in the shower” (E, 2020).

Interviewee F (F, 2020)

As stated previously “...it was during Christmas time [...] this dance floor is not allowed to bring drinks and this guest did bring a drink, spilled her own drink and fell on that liquid.”

Interviewee G (G, 2020)

“...a guest slipped on the bath and injured his back.”

Follow-up questions to the interviewees A and E in order to learn if such incidents happened often, got the following responses:

“...I don't think they happen really often but they will eventually happen if you run a busy hotel that has 200 bedrooms or so, where you have 400 people staying in the hotel every day[...] with such an amount of traffic of people, you are always going to have a certain amount of slip or trips or falls” (A, 2020).

“...near misses happen quite often [...] I think, it's the near misses that you need to focus on a lot more rather than accidents themselves. An accident is a build up to say maybe 15 to 20 near misses” (E, 2020).

“...as soon as you get those near misses you need to eliminate those straightway rather than the accidents [...] once you have those near misses you need to report the near misses to your General Manager, line manager and you need to get that remedied straight away” (E, 2020).

According to Safeopedia (2019) a near miss is an unintentional incident that could have caused damage, injury or death but was narrowly avoided. In the context of safety, a near miss may be attributed to human error or might be a result of faulty safety systems or processes in an organization.

6.5. Category 4: Alternative Dispute Resolution (ADR)

As explained in Chapter 3, Alternative Dispute Resolution (ADR) is *“the procedure for settling disputes without litigation, such as arbitration, mediation or negotiation. ADR procedures are usually less costly and more expeditious. They are increasingly being utilized in disputes that would otherwise result in litigation”* (2016).

One of the objectives of this research is to identify areas within the hospitality industry where ADR is currently being used as an alternative to resolve legal disputes rather than litigation. For the purposes of this research, interviewees were asked if they were familiar with Alternative Dispute Resolution and if the company they are working for is currently using these approaches. The answers were as follows:

Interviewee A (A, 2020)

“...I’ve heard about those approaches in different industries, using them to manage kinds of disputes between employers and employees but I’ve never heard about it if you are handling it like, say a dispute between a customer or a member of the public and a private business. I do know of those approaches but not in relation to the hospitality industry.”

Interviewee B (B, 2020)

“...I know a little bit about how to solve problems in families and this kind of environment but not like legal things.”

“...I don’t know if they have an ADR [...] if I don’t know about any of them because it was private and they try to keep the privacy of the problem and the people who were involved.”

Interviewee C (C, 2020)

“...we don’t use it in our hotel as such but yeah I’ve heard of it.”

Interviewee E (E, 2020)

“...unfortunately I’m not.”

Interviewee F (F, 2020)

“...I am not.”

Interviewee D had a legal action for breach of contract with a guest where this guest, in words of Interviewee D *“...requested and booked an accessible bedroom and they did not receive that bedroom and the guest obviously required those facilities. They had threatened legal action”* (D, 2020). However, this situation was resolved through mediation.

The Interviewee D (D, 2020) explained *“...we sat down and we did a mediation instead of it going further. I went to represent the hotel myself. I discussed it with the guest in question. I heard what had happened on the day and they accepted my apology. I explained the normal facilities that we offer. They were happy with that. They decided to come back and avail of that service and were happy with the standard that we provided within the property.”*

Regarding the above example, the researcher asked if the interviewee has used this approach in other situations and she replied *“...I’ve only used it once. It was an outside mediation... at WRC”* (D, 2020). However, when the researcher asked if her current company use ADR to resolve any kind of disputes with guests or staff, she said *“...they have used it with staff”* (D, 2020).

On the other hand, Interviewee G (G, 2020) expressed *“...I think any methods other than litigation resolving a dispute will be an Alternative Dispute Resolution. So, if you mean under this ADR is mediation or conciliation or negotiation... yes, we quite frequently use both.”* In respect of that, the Interviewee G shared an experience using one of the approaches of ADR, that took place in his current job with the maintenance team. *“...when the maintenance team was unhappy with the salaries provided by our service contractor. The contractor was adamant that all salaries agreed to in the comprehensive contract was fulfilled but we weren’t happy with the service of how it was done. So, we both agreed to call an independent expert. The person of that company was accepted obviously by both parties[...] we sat down again with the company and the negotiation reached an agreement with the supplier which included both of us”* (G, 2020).

According to this, it is possible to see that:

- 5 out of 7 interviewees are familiar with these approaches
- 2 of the 5 interviewees explained that it is not used at all in their places of work
- 1 of the 5 interviewees does not know if the hospitality industry uses these approaches
- 2 of the 5 interviewees have used these approaches in the hospitality industry

However, the final question of the interview was asked only to the interviewees who hold the position of General Manager as they represent the hotel in the case of legal action and also because they were the only interviewees who had a clear knowledge of ADR. The question was: Do you think ADR is a good way to resolve disputes instead of going to litigation?

Interviewee A (A, 2020)

“...I think anything you can do to avoid things going legal is a better approach [...] and I think definitely that’s a better approach because as time goes on, people become more bitter and people forget what actually happened and things can get more serious once lawyers and paperwork and everything takes off.”

Interviewee D (D, 2020)

“...yes, I think if the guest is bringing legal action because they feel that there is something that the hotel is lacking for future guests, and I think if the hotel is able to show that they’ve changed certain aspects of the service they deliver and that they are willing to do something, it is the most important thing and they can do that through mediation [...] it doesn’t work for all cases but I think if the guest is out for the good of others, then it will work.”

“...I think mediation also works between team members if there’s an issue and that can work very well as well. When they hear both sides and instead of them arguing themselves it’s mediated and everyone has a chance to speak and put their foot forward.”

Interviewee G (G, 2020)

“...to me litigation is the last resource when it comes to any situation. I think ADR is a lot more cost and time effective and actually conducive to business as well. So, yes... I think it is always a good idea to find a different solution and not end up on court.”

Chapter 7 – Discussion

The purpose of this chapter is to delve into the meaning, importance and relevance of the results. It focuses on explaining and evaluating what the researcher found, showing how it relates to the literature review and research questions and produces an argument in support of the overall conclusion (McCombes, 2019).

With this in mind, the researcher endeavors to present and explain the findings regarding the aims and objectives proposed in this research.

7.1. Discussion of how the hospitality industry is preventing future disputes

When trying to establish if the managers are effectively prepared to prevent future disputes in their hotels, it is clearly evident from the discussions with the interviewees that prevention is the most important priority on an everyday basis. Strenuous efforts are made to ensure safety for guests and staff alike. Each interviewee states that their hotels have procedures related to health and safety, risk assessment, training, audits, guest and staff safety, hazard identification, safety equipment, among others, together with protocols to follow when an incident occurs. Meanwhile, the literature review highlights the importance of prevention in the hospitality industry not only as an objective to avoid accidents and lawsuits but also to provide an environment that maximizes guest safety and security. Furthermore, the research demonstrates that the back office line is effective in preventing future disputes by following the procedures mentioned above and providing the necessary training to their entire staff. The back office line always makes efforts to pre-empt incidents by searching for any hazards which could possibly crop up within the building. The aim of these exercises is to prevent any incidents taking place or at least reduce their occurrence as much as possible. However, guests still can be injured in the hotel notwithstanding the prevention measures taken. When prevention fails,

staff rely on protocol to be followed carefully by the managers of the hotels step by step, carefully, to avoid a legal action.

Both literature review and the research have proved the importance of prevention in the hospitality industry. As Interviewee D (D, 2020) said “...we look and analyse where dangers would present themselves to either the employees themselves or to customers within the building and then we put different scenarios together to prevent how those issues would happen and training how to deal with and obviously provide safety.”

7.2. Discussion of what the hospitality industry is doing regarding provision of qualified staff to handle dispute resolution

In relation to the staff training IA, IB, ID and IF agreed that not all the staff are prepared for handling serious incidents. ID explained that the front office line is trained to a certain degree and the managers are trained for escalated complaints, such as accidents or injuries. IA added that in every shift there will be a manager on duty who is fully trained to deal with this kind of incident.

However, all the interviewees agreed that the hotels provide training to all employees prior to starting to work in the company. They might have to complete an induction course where new staff will get training on basic health and safety, handling complaints, manual handling, fire training, alcohol training, prevention, risk assessment, among other skills.

IG also said that the training continues in the first week of the employment. After the induction course, there is a follow up in training for the new staff, and according to IA they are given refresher courses throughout the year. So, at a basic level, we can see that their staff never cease the training process.

IA (A, 2020) expressed “...all you can do is train, train and train people to the point where they don't put guests or team members at risk. So, you are helping people do their job properly.”

Also, the interviewees stated that training is provided by the line manager or Head of Departments in synergy with the HR and that every department has their specific training. IA (A, 2020) explained

“...someone in food and beverage maybe doesn't need the same training than someone in front office does.”

7.3. Discussion regarding if the hospitality industry is currently using ADR

As we have seen in the previous chapter, only ID and IG have used ADR as an alternative to resolve disputes besides litigation. ID did use this approach with a guest's complaint for breach of contract where an accessible bedroom had been requested by the guest but not provided by the hotel. IG used this approach with a contractor, not a guest.

On considering the interviewees' accounts, it is obvious that ADR is not being used widely in the hospitality industry as an alternative to resolve disputes with guests. Of the interviewees, 5 out of 7 are aware of this approach but only one of them could relate an occasion where their employer made use of ADR to resolve disputes with guests. However, 2 out of 7 interviewees explained that their hotels have used ADR in relation to staff and contractor disputes.

In the literature review, it has been shown that hoteliers have made use of arbitration to resolve disputes regarding the *scope and validity of a significant agreement, claims of wrongful termination of a significant agreement, owner claims of mismanagement by the management company, owner-contractor disputes regarding the construction of a new hotel, interpretation of collective bargaining agreements and franchisor claims that the hotel fails to comply with mandated standards* (Pucciarelli, 2018).

It is evident that ADR is an effective method of resolving disputes. However, both the literature review and the hoteliers involved in this research demonstrated that in the hospitality industry, full advantage is not being taken of ADR to resolve legal disputes with guests. Although this study found that this approach is being used in relation to staff or contractors' disputes.

Regarding the question whether this approach is beneficial when resolving disputes instead of litigation, IA and IG agreed that means of solving problems in conflict situations that can prevent

escalating to ending up in court is a preferable option. As ID (D, 2020) expressed “...it doesn't work for all cases but I think if the guest is out for the good of others, then it will work.”

7.4. Discussion of how the hospitality industry is dealing with legal conflicts

In chapter 6, the hospitality industry dealt with legal conflicts based on protocol. Each interviewee agreed that the purpose of this protocol is built around ensuring the wellbeing of the injured party and that he/she receives every assistance possible. Also, all the interviewees explained the importance of recording the incidents, making use of photographs, witness and staff statements, downloading of the CCTV footage, completing paperwork with the injured party and supplying statements from all parties concerned of the incident in question. They also stressed the importance of filling out the paperwork with as much detail as possible to have a complete picture of the incident. The interviewees emphasized that once the initial actions have taken place, the documentation should be sent to the hotel's solicitor at the very earliest opportunity. Therefore, should a case arise in the future where the hotel may need to be defended against a legal demand, the paperwork is already in place. IC (C, 2020) explained “...the protocol is there for, [...] making sure that we have witness statements and accidents/incidents reports that are filled in, just to make sure that we have our backup there just in case, down the line, they decide to contact their solicitor or whatever else. We've done everything in our power to resolve the issue.”

IE emphasized the importance of appearing confident in these situations. IF explained that it is essential to ensure that the guest is satisfied with the handling of the situation to a degree where she or he does not intend to institute a legal action against the hotel. Furthermore, IG believed that when the hotel expressed concern for the guest at the time of the incident together with follow up calls over the succeeding days, the outcome would be less likely to end up in court.

In the words of IB (B, 2020) “...we tried to find the way to finish the conflict in the best way, especially for the guest and the hotel too, of course.”

7.5. Discussion of how the hospitality industry resolves legal disputes with their guests

Despite the many disputes that can take a hotel to court, it is clearly evident that the hospitality industry engages in robust efforts to settle disputes at the nascent stage. All the interviewees agreed that they try to resolve legal disputes with their guest on the spot. IG (G, 2020) explained “...*the aim in the hotel is to close the issue and find the solution on the spot or at least while the guest is still in the hotel.*”

Regarding **overbooking**, all the participants agreed that this issue has not caused legal action to date. The interviewees described how each of their companies resolve these situations. IA believed in being honest and providing alternative accommodation for the guest. IC said that they have appropriate procedures in place to deal with overbookings should it become a problem. IE explained that if the hotel has an overbooking, they transfer the reservation to another hotel from the hotel group which is an upgrade for the guest. IG said that they provide accommodation in a hotel close by and they pay for any extra costs incurred. If the guest is unhappy with this arrangement, the hotel includes a complimentary voucher.

Where a **breach of contract** was the cause of conflict, only two interviewees have experienced legal action. IA explained that the policy of their hotel is to follow the terms of their contract regardless of the impact it may have on the company. “*The contract is the contract.*” However, ID had a situation where a guest took legal action because he requested an accessible bedroom that was not provided. She said that they resolved the dispute through mediation.

When the issue of dispute related to **negligence**, IB had to deal with a complaint concerning damaged luggage delivered to the room by the concierge. According to the guest, the luggage was in good condition on arrival but was damaged when delivered to the room. IB explained how she resolved the incident “...*we decided to refund her an amount for approximately the price of the luggage*” (B, 2020).

In relation to guests who have been **injured** in the hotel, the interviewees shared how their legal disputes were resolved.

IA had a situation where a guest injured himself when the lift doors closed on him. The Interviewee A explained how the dispute was resolved “...we ended up paying €7,000 in medical bills and a little bit extra for the inconvenience for the time he missed from work” (A, 2020).

ID said that she has an ongoing dispute with a guest who was cut by pieces of broken glass when a serving staff member dropped a tray of drinks. She said “...that will go to court and hopefully the correct outcome will happen” (D, 2020).

Also, IF had a legal dispute where a guest slipped on her own drink spillage on a dance floor during a Christmas party in the hotel, “...the guest didn't win this lawsuit” (F, 2020).

IG described a situation where a guest slipped in the bath and injured his back. “...the incident report was sent to our insurance and legal team and the insurance company followed up with the completed investigation and took over the case from there, which was settled outside the court” (G, 2020).

Considering the above examples, it is possible to identify what the hospitality industry has been doing in its efforts to resolve disputes with guests on the spot. When problems have failed to be decided to each party's satisfaction at the initial stage, the hotels' solicitors do all that is possible to settle the dispute outside court. Frequently, however, the resolutions are processed through litigation. IA (A, 2020) explained “...usually it would be the legal team employed by the hotel who will be the ones that go to court for the claim or case. We would just assemble all the paperwork together.”

Chapter 8 – Conclusion

“Is Alternative Dispute Resolution (ADR) currently being used in the Hospitality Industry to resolve legal disputes that are occurring between hotels and their guests?”

The answer to the main research question is **no**, considering the outcome from the interviews. When examining the literature review, it became clear that the hospitality industry is not utilizing ADR as an alternative to resolve legal disputes with their guests. In contrast, it was discovered that in disputes concerning staff members and contractors, the industry did make use of ADR but according to the interviews, the researcher noticed that the hospitality industry is still not convinced of the various uses and benefits of this approach.

Throughout the research, it has been shown that hoteliers are resolving complaints with guests directly and on the spot. According to the interviewees, it is much easier to resolve the dispute with the guest when they are still in the hotel than to follow up with them via email. However, when a complaint escalated and it was not possible to resolve it on the spot, the next step involved handing the case over to the solicitors. The legal team make every effort to resolve the dispute outside court but most of the legal disputes were settled via litigation.

In addition, the interviewees demonstrated that prevention is the key to avoid or at least reduce as much as possible, legal disputes with their guests. It has also been shown from this research how vital appropriate training is for day to day running of the hotels. This provides security for the guests and the staff. The interviewees agreed that every single staff member has received training and they continue their training throughout the year. Furthermore, all the interviewees agreed that effective handling of complaints is a necessary skill in the hospitality industry. IG expressed the following *“...in hotels, complaint handling has a huge impact on customer loyalty and retention. To me it gives you an opportunity, even if something went wrong”* (G, 2020). Also, it gives the hotel a chance to

demonstrate to the guest that the company cares for the guest's wellbeing and are anxious that guests will be content leaving the incident behind and not walk away feeling angry and intent on suing.

The outcome of this research is to recommend hoteliers to search for new alternatives to resolve legal disputes with guests. Besides litigation, the hospitality industry can introduce mediation or arbitration to resolve disputes with their clientele. These approaches can be very beneficial for the company, saving time and expense.

The purpose of ADR is to fill the gap that is produced in episodes where accidents or other areas of conflict occur between the initial stage and litigation. The researcher found hotels' solicitors make every attempt to resolve disputes before recourse to litigation becomes a necessary tool. This researcher's recommendation would be to use ADR in that gap so the hotel and the guest could settle the dispute in an amicable fashion and outside of court.

For future research, the author suggests further examination and redesign of the methodology, such as mixed methods. The interviews provided the researcher with valuable information and insight. However, access to statistics regarding legal disputes would have been a more informative source and a fuller picture could have been presented of the problems involved. Including a greater number of hotels would also have been beneficial for the research as this would have given a wider range of data together with varying points of view from the General Managers and Duty Managers as every hotel has different procedures. Unfortunately, this proved an unavoidable limitation to this study.

Reflection

“Challenges are what make life interesting. Overcoming them is what makes them meaningful.”

– Anonymous

This reflection is about how challenging it is to do a dissertation. It is the first time that I have ever attempted to work on a thesis. There were times when I felt overwhelmed, lost, stressed and even wondered if I would ever reach the end. It certainly had its difficult moments.

First of all, as English isn't my first language, I had to be extra careful, which was an added element to the already present challenges of writing a thesis. I had to be continually vigilant when expressing what I needed to write in a legible form. Avoiding Spanglish was a constant struggle.

Secondly, the Covid-19... Yes, I had plenty of time to do my thesis. I cannot claim that I hadn't enough time but having to adapt to this new situation was an added stress that was hard to ignore at times. Like many others, it is a constant worry when you are far away from your family. Also, again like many others, being laid off from work didn't help. The restrictions and the evolving developments as everyone tries to cope with an uncertain future, lack of social interaction and the lockdown, itself, were all negative elements that I could have done without. In my case, I have always found swimming an aid to concentration and study and I had to take care that missing out on this exercise did not affect my work. It was really challenging but I feel proud that I did the best I could despite these difficulties and proved to myself that I could tackle the obstacles that came my way.

I learned there would be days where inspiration refused to come forth despite all my willing it to. I cannot force it but I discovered that sometimes a day off is the best medicine when you need to achieve your objectives. Remaining positive, staying strong and never giving up are the great lessons I learned from this experience.

Finally, I would like to say that the dissertation was an excellent opportunity to improve my English language skills and also it gave me the chance to challenge myself and prove that it is in my power to tackle problems, resolve issues and drive hard to the finish when I have a clear goal in mind.

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Appendices

Appendix A – Approval for Ethical Research

Form A: Application for Ethical Approval	
Undergraduate/Taught Postgraduate Research	
This form should be submitted to the module leader for the relevant initial proposal and/or the relevant supervisor if the proposal has already been accepted.	
Please save this file as STUDENTNUMBER_AEA_FormA.docx	
Title of Project	Legal Dispute Resolution in the Hospitality Industry
Name of Learner	Karen Patricia Molina Omelas
Student Number	51675196
Name of Supervisor/Tutor	Nadia Bhatti

Check the relevant boxes. All questions must be answered before submitting to the relevant lecturer / supervisor. Note: only one box per row should be selected.

Item	Question	Yes	No	NA
1	Will you describe the main research procedures to participants in advance, so that they are informed about what to expect?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2	Will you tell participants that their participation is voluntary?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
3	Will you obtain written consent for participation (through a signed or 'ticked' consent form)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
4	If the research is observational, will you ask participants for their consent to being observed.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5	Will you tell participants that they may withdraw from the research at any time and for any reason?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
6	Will you give participants the option of not answering any question they do not want to answer?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7	Will you ensure that participant data will be treated with full confidentiality and anonymity and, if published, will not be identifiable as any individual or group?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8	Will you debrief participants at the end of their participation (i.e., give them a brief explanation of the study)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9	If your study involves people between 16 and 18 years, will you ensure that passive consent is obtained from parents/guardians, with active consent obtained from both the child and their school/organisation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
10	If your study involves people less than 16 years, will you ensure that <u>active</u> consent is obtained from parents/guardians <u>and</u> that a parent/guardian or their nominee (such as a teacher) will be present throughout the data collection period?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
11	If your study requires evaluation by an ethics committee/board at an external agency, will you wait until you have approval from both the IADT and the external ethics committee before starting data collection.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Item	Question	Yes	No	NA
12	If you are in a position of authority over your participants (for example, if you are their instructor/tutor/manager/examiner etc.) will you inform participants in writing that their grades and/or evaluation will be in no way affected by their participation (or lack thereof) in your research?	<input type="checkbox"/>	<input type="checkbox"/>	X
13	If you are in a position of authority over your participants (for example, if you are their instructor/tutor/manager/examiner etc.), does your study involve asking participants about their academic or professional achievements, motivations, abilities or philosophies? (please note that this does not apply to QA1 or QA3 forms, or questionnaires limited to market research, that do not require ethical approval from the IREC)	<input type="checkbox"/>	<input type="checkbox"/>	X
14	Will your project involve deliberately misleading participants in any way?	<input type="checkbox"/>	X	
15	Is there any realistic risk of any participants experiencing either physical or psychological distress or discomfort?	<input type="checkbox"/>	X	
16	Does your project involve work with animals?	<input type="checkbox"/>	X	
17	Do you plan to give individual feedback to participants regarding their scores on any task or scale?	<input type="checkbox"/>	<input type="checkbox"/>	X
18	Does your study examine any sensitive topics (such as, but not limited to, religion, sexuality, alcohol, crime, drugs, mental health, physical health, etc.)	<input type="checkbox"/>	X	
19	Is your study designed to change the mental state of participants in any negative way (such as inducing aggression, frustration, etc?)	<input type="checkbox"/>	X	
20	Does your study involve an external agency (e.g. for recruitment)?	<input type="checkbox"/>	X	
21	Do your participants fall into any of the following special groups?	<input type="checkbox"/>	<input type="checkbox"/>	
	<i>(except where one or more individuals with such characteristics may naturally occur within a general population, such as a sample of students)</i>	<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	

If you have ticked any of the shaded boxes above, you should consult with your module leader / supervisor immediately. **You will need to fill in Form B Ethical Approval** and submit it to the Research & Ethics Committee **instead** of this form.

There is an obligation on the researcher to bring to the attention of the Research & Ethics Committee any issues with ethical implications not clearly covered by the above checklist.

I consider that this project has no significant ethical implications to be brought before the relevant Research & Ethics Committee. I have read and understood the specific guidelines for completion of Ethics Application Forms. I am familiar with the codes of professional ethics relevant to my discipline (and have discussed them with my supervisor).	X
---	----------

Name of Learner	Karen Patricia Molina Omelas
Student Number	51675196
Date	11/04/2020

I have discussed this project with the learner in question, and I agree that it has no significant ethical implications to be brought before the Research & Ethics Committee.	X
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Name of Supervisor/Lecturer	Nadia Bhatti
Date	14/04/2020

Appendix B – Interview Main Questions

1. Could you tell me your current position in the company? and how long time have you been working in this position? and also a bit about your experience in the hospitality industry.
2. What does the hotel do to prevent accidents and preserve the safety of the guests and the staff?
3. Who is responsible for the training of the staff?
4. Do you consider that the staff of the hotel is fully trained to handle any kind of incidents occurring in the hotel?
5. What types of disputes related to guests are most common in the hotel?
6. Has had the company any legal disputes with a guest?
7. Have you had any legal action for a mistake in a reservation or for overbooking?
8. Have you had any legal action for negligence from your staff?
9. Have you had any legal action for breach a contract of a guest?
10. If there is an accident in the hotel where a guest is involved, how will the company manage the incident to prevent a lawsuit? What is the protocol to follow?
11. Have you experienced any situation where a guest has been injured in any of the hotels where you have worked?
12. Are you familiar with Alternative Dispute Resolution (ADR)?
13. Has the company used it to resolve any kind of disputes?
14. Do you think ADR is a good way to resolve disputes instead of litigation?

