

Code of Conduct and ADR Annual Report 2017/2018

The Code of Conduct applies to all ABTA Members and is central to achieving ABTA's aims, in particular delivering higher standards for customers and building confidence in travel.

ABTA provides guidance and training to Members on the Code, and carries out monitoring to see that Members comply, and holds them to account if necessary through various enforcement methods.

ABTA is approved as an ADR body by the Chartered Trading Standards Institute in respect of its Customer Support function. ABTA also offers Arbitration and Conciliation Schemes. These were provided by the Centre for Effective Dispute Resolution until May 2018 and latterly by Hunt ADR.

This report presents the facts and figures for code activity and for the operation of the ADR schemes for the past year (1 July 2017 to 30 June 2018).

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For information on ABTA and to view the Code and its Guidance, please go to www.abta.com

Key: figures in brackets are last year's figures.

A. CODE OF CONDUCT

1. Member Advice and Guidance

This year has been an important one in terms of legal compliance, with a number of new regulations coming in or about to come in, in particular the new Package Travel and Linked Travel Arrangements Regulations 2018. Members have sought more advice from ABTA to make sure they are complying or are prepared, as the figures below on website views and seminar attendance show.

a. Calls and emails

Over the year, ABTA's Member advice teams answered 13,434 (15,636) phone calls and 6,600 (5,412) emails from Members.

b. Views of ABTA's online guidance

Our weekly e-newsletter, ABTA Today, provides vital information and guidance to Members. There are 3,987 (3,865) current subscribers.

Members have access to a range of online resources on www.abta.com. As well as the Code of Conduct and the Guidance on the Application of the Code, there are a number of guidance notes on specific legal and compliance topics and model documents such as booking conditions.

Number of page views this year:

Code of Conduct:	25,376 (24,583)
Guidance Notes:	11,944 (7,792)
Model documents:	5,340 (3,441).

c. Seminars and training

ABTA provides a program of seminars and workshops to keep Members updated and informed. Many of these include training on the Code and Code-related issues. During the year:

- 196 (166) Members attended our seminars on best practice in complaint handling: Complaints Handling Workshop and Managing Customer Complaints.
- 194 (155) Members attended our Travel Law seminar and 30 came to Travel Law Scotland
- 85 (82) Members attended our Beginner's Guide to Travel Law
- 38 (32) attended the seminar on Consumer Law in Marketing and Selling of Holidays
- 38 attended Customer Service Excellence
- 40 attended the Claims Handling seminar
- 214 attended Data Protection in Travel
- 60 attended a seminar focussing on the new Package Travel Regulations
- 56 attended Communicating FCO and other travel advice to customers.

This year, ABTA also launched online training aimed at supporting frontline sales staff through [The Knowledge Zone](#). Since it opened in December 2017, 1691 users have registered on the site. The training courses, and the numbers that have completed them, are as follows:

About ABTA	645
Foreign & Commonwealth Office (FCO) advice and your customers	605
Introduction to child safeguarding	104
Implementing child safeguarding	67
Demystifying accessibility	67
Inclusive Travel – business sense	50
<i>A module on Modern Slavery will be added soon</i>	

2. Code Monitoring

ABTA monitors compliance with the Code in certain important areas.

a. Liability Insurance

This year, as in previous years, ABTA monitored Members' compliance with Clause 61 of the Code, which states that Members shall, if they are Principals, ensure that they obtain liability insurance to cover claims made by clients.

All Members selling as a Principal (844 Members) were contacted during the year to ensure that they complete and return a Liability Insurance Notification Form giving details of insurance cover.

ABTA ensures that all principal Members comply, by referring to Code of Conduct Committee any that don't return the Form. This year, 3 (2) Members were fined by the Code of Conduct Committee for breaching clause 61 and required to provide evidence of insurance cover immediately.

b. Website Information

This year, as in previous years, monitoring was carried out to make sure that Members' websites aren't misleading and contain all the key information a client needs. This can be done using the website checklist in the Code of Conduct.

All new Members joining ABTA were subject to this monitoring and advised as necessary to ensure compliance.

Certain issues are checked as necessary and this year our monitoring was dominated by a project checking that all Member websites (1129) carry a link to the Foreign and Commonwealth Office (FCO) travel advice, in a prominent place. The Coroner's report into the deaths of holidaymakers in Tunisia stated that action should be taken to see that FCO advice is provided to travellers and ABTA agreed to ensure this is achieved, in respect of the ABTA Membership.

The monitoring is ongoing, although the vast majority of Member websites are now compliant. ABTA also complemented this work by launching an online training available to Members, which provides further help and advice on providing the FCO advice to clients. 605 Members have completed this training to date.

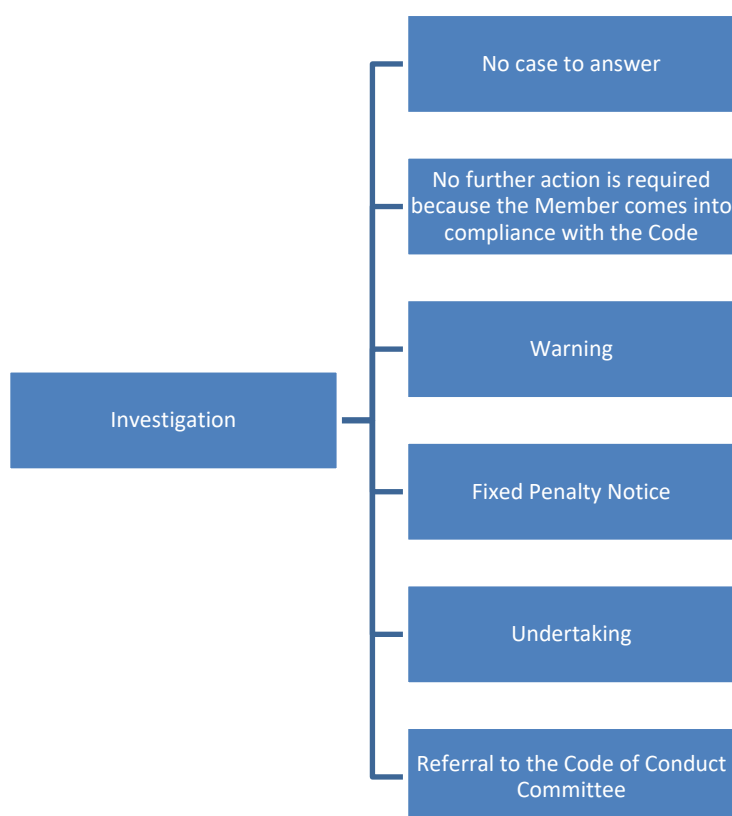
3. Code enforcement

If necessary, on receipt of a complaint, ABTA acts to see that the Code is complied with.

a. Code of Conduct Referrals

During the past year, 581 (578) files were investigated under the Code of Conduct. The source of these files is ABTA's Customer Support team, Members, suppliers to Members and ABTA's code monitoring. At the end of the investigation process, the referrer will be notified of the outcome, including the customer that originally raised the complaint.

Following investigation with the Member that is the subject of the complaint, there are a number of different ways a Code case can be dealt with as this diagram illustrates:



No further action is required because the Member comes into compliance with the Code

This year, 79 (36) cases fell into this category, with Members, for example, improving their procedures or making changes to their website information.

- Improved Procedures: 29
- Resolved: following the Legal Department's approach Member has resolved matters: 44
- Recommendation: following discussions with the Member the Legal Department has provided recommendations on best practice, which Member has accepted and implemented: 6

Warnings

If a Member is in breach of the Code, a warning can be issued. If the Member doesn't want to accept the warning, it can take the case to the Code of Conduct Committee. If the Member accepts the warning, and then

commits the same offence within two years, it will be required to give an undertaking or appear in front of the Code of Conduct Committee.

This year, 6 (8) warnings were issued and accepted.

Fixed Penalty offences

13 clauses of the Code can be dealt with by ABTA issuing a Fixed Penalty Notice where a breach is, on the face of it, self-evident and has been rectified without significant or ongoing detriment to the consumer. Under this process, the Member will pay a fine of £400 and no further action will be taken.

This year, 33 (40) Fixed Penalty Notices were issued.

Fixed Penalty Notices issued:

- *5B Reply to correspondence from client (x 24)*
- *5C Reply to correspondence from ABTA (x 9)*

Members can refer the Fixed Penalty Notice to the Code of Conduct Committee for a hearing if they wish. In addition, if the Member fails to pay then the case will be referred to the Committee. This year, no (one) Fixed Penalty Notices were referred.

Undertakings

If the investigation has revealed a breach of the Code, the Member can be asked to give an undertaking about its future conduct and Code compliance, if this is thought to be a better way to deal with the breach than a Fixed Penalty fine or a referral to the Code of Conduct Committee.

If the Member doesn't want to give the undertaking the matter can be referred to the Committee for a hearing.

This year, 7 (5) undertakings were requested and 6 (5) were obtained.

Undertakings received for breaches of:

- *2B Booking Procedures*
- *3E Clients' Options on Significant Alterations*
- *5G Rules of ABTA Arbitration (x3)*
- *6B Fair Trading*

A further 22 (87) alleged breaches of the Code that were not dealt with by way of a Warning, Fixed Penalty Notice or Undertaking were referred to the Code of Conduct Committee for a hearing.

b. The Code of Conduct Committee

The Code of Conduct Committee comprises Members of ABTA, both tour operators and travel agents, representatives of the Trading Standards Authorities and the Civil Aviation Authority. It hears alleged breaches of the Code and can impose a range of penalties if necessary: reprimands, undertakings, fines, suspension of membership and termination of membership.

Current membership of the Committee:

Peter Baxter	Chairman	TUI UK Ltd
Bridget Keevil	Vice-Chair	Travel Stop Worldchoice
Willie Stewart		Hays Travel Ltd
Ian Bates		Thomas Cook Tour Operations Ltd
Daniele Broccoli		Britaly Travel Ltd
David Powell		InspireSport
Richard Simpson		Midcounties Co-op
Karen Hart		Lotus International Ltd
Heather Ward		RCL Cruises Ltd
Hilary Kett		TUI UK Ltd
Civil Aviation Authority		
Various Trading Standards Authorities		

The Committee met on four (five) occasions during the period.

During the four meetings the Committee considered 22 (87) alleged breaches. The Committee concluded that 21 (87) breaches had occurred. 19 (76) of these were dealt with by way of a fine, 1 (10) by way of a reprimand and in 1, which concerned an unpaid arbitration award, no sanction was imposed as long as the Member paid the award immediately to the client.

The Committee also issued other remedies as required. It requested three undertakings from Members as well as issuing fines, such as to review their processes to ensure that arbitration awards are always paid on time.

Breaches upheld by the Code of Conduct Committee:

- 1A *Accurate Information*
- 2I *Building Works*
- 2M *Insurance Documentation*
- 3C *Notification of Alterations*
- 3D *Significant Alterations (x2)*
- 5B *Correspondence with Clients*
- 5C *Correspondence with ABTA (x2)*
- 5G *Rules of ABTA Arbitration (x7)*
- 6G *Payment of Debts*
- 6H *Client Refunds*
- 6I *Liability Insurance (x3)*

c. The Appeal Board

Members have a right of appeal against decisions of the Code of Conduct Committee. Appeals are heard by an Appeal Board which is independent of the Committee.

There were two (one) appeals during this period. In one, the Appeal Board upheld the decision of the Code of Conduct Committee and confirmed the fine amount; in the other, it upheld the decision of the Code of Conduct Committee and reduced the fine from £1,000 to £500.

B. ALTERNATIVE DISPUTE RESOLUTION (ADR)

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1. ABTA ADR cases

Customers of ABTA Members have access to [ABTA's authorised ADR scheme](#) to help resolve any complaints. If the customer has been unable to resolve a complaint with the Member, the ADR scheme will help bring the parties together. Our Customer Support department opened 15,500 (14,182) cases in relation to customer issues concerning ABTA Members over the last year. All cases received by ABTA that fell within the scope of the Scheme were dealt with through the ADR Scheme.

The vast majority of these are resolved through the ADR scheme which facilitates discussion and negotiation between the customer and the Member.

The top 5 type of complaints given by customers:

1. Poor accommodation
2. Service from travel company
3. Not what I booked (unhappy with booking e.g. resort, hotel)
4. Misleading advert
5. Building works

2. Arbitration and conciliation

Those complaints that are not resolved through the ADR scheme can progress to the Arbitration and Conciliation Schemes in order to resolve the customer's complaint.

General complaints, which are not solely or predominantly about injury and illness are eligible for the ABTA Arbitration Scheme. Complaints about injury and illness are eligible for the ABTA Conciliation Scheme.

- Arbitration

The Arbitration Scheme is compulsory, meaning that ABTA Members must allow any dispute with a client to progress to arbitration. It produces a legally binding result.

This year there were 839 (666) cases that were the subject of an arbitration award. This represents approximately 5% of all complaints received during this period. 536 arbitrations have been found in favour of the applicants and 303 in favour of the Member, which represents a 64% success rate for the consumer. The average amount claimed by applicants was £2,855 and the average award was £783.

- Conciliation

The Conciliation Scheme is voluntary. The Conciliator seeks to help both sides come to a mutually satisfactory settlement by negotiation and compromise. Any settlement agreed only becomes legally binding once the Confirmation of Outcome Statements are signed by both parties.

Since Hunt ADR started providing the Scheme in May, it has received 20 conciliation claims.