

Code of Conduct and ADR Annual Report 2018/2019

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, provided 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 2018 to 30 June 2019).

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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. Changes to the Code this year

- July 2018

The Code had a number of changes, to reflect the new Package Travel and Linked Travel Arrangements Regulations (PTRs). The Code previously distinguished between principals and agents, however under the PTRs the obligations are on Organisers, whether agent or principal. Therefore, relevant obligations in the Code on principals were extended also to organisers. Other changes:

Clause 1B: Standards on Brochures removed. 2B: the requirement for Members to provide clients with the correct pre-contractual information, and contact details, as required by the PTRs, was added. 3A- F on cancellations and amendments updated in line with new PTRs. Unavoidable and extraordinary circumstances introduced. The position on compensation altered. Minimum numbers was added to the acceptable reasons for cancellation by a Member. 3J on Surcharges was changed in line with the new PTRs. Similarly, 4B on changes after departure and 4E on assistance for clients. 5E now requires Agents to forward complaints without delay, given that the PTRs now state that time limits for replying, on the Principal or Organiser, start to run from receipt of the complaint by the agent.

- January 2019

Clause 5G was changed, to refer to all ABTA ADR schemes, not just the Arbitration Scheme, and more information on the schemes was added to the Code Guidance.

2. Member Advice and Guidance

a. Calls and emails

Over the year, ABTA's Member advice teams answered 14,022 (13,434) phone calls and 3,017 (6,600) 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 5,762 (3,987) 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:	20,931 (25,376)
Guidance Notes:	9,838 (11,944)
Model documents:	2,798 (5,340).

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:

- 137 (196) Members attended our seminars on best practice in complaint handling: Complaints Handling Workshop and Managing Customer Complaints.
- 150 (194) Members attended our Travel Law seminar
- 77 (85) Members attended our Beginner's Guide to Travel Law
- 27 (38) attended the seminar on Consumer Law in Marketing and Selling of Holidays
- 34 (38) attended Customer Service Excellence
- 42 (40) attended Claims Handling seminars
- 175 (214) attended Data Protection in Travel and Data Management seminars
- 187 (60) attended seminars focussing on the new Package Travel Regulations
- 28 attended Business Travel Law
- 34 (56) attended Communicating FCO and other travel advice to customers.

There is also [The Knowledge Zone](#), online training aimed at supporting frontline sales staff. The training courses, and the numbers that have completed them, are as follows:

About ABTA	1323
Foreign & Commonwealth Office (FCO) advice and your customers	281
Introduction to child safeguarding	372
Implementing child safeguarding and policies	127
Demystifying accessibility	151
Inclusive Travel: making business sense	83
Tackling modern slavery	80
ACT (Action Counters Terrorism) training	155

3. 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 or Organisers, ensure that they obtain liability insurance to cover claims made by clients.

All Members trading as a Principal (791) were contacted during the year to ensure that they complete and return a Liability Insurance Notification Form giving details of insurance cover. Some Members trading as Organisers (but not Principals) were contacted. This is a new concept, brought in by the revised Package Travel Regulations in July 2018. ABTA is amending its processes to be able to identify and contact all of those Members as well.

Any Member that does not return the Form is referred to the Code of Conduct Committee. This year, 8 (3) Members were disciplined by the Code of Conduct Committee for breaching clause 61 and, where relevant, required to provide evidence of insurance cover immediately.

b. Website Information

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

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

Among existing Members, certain issues are checked as necessary. This year we considered financial protection statements and the presentation of resort fees and city taxes.

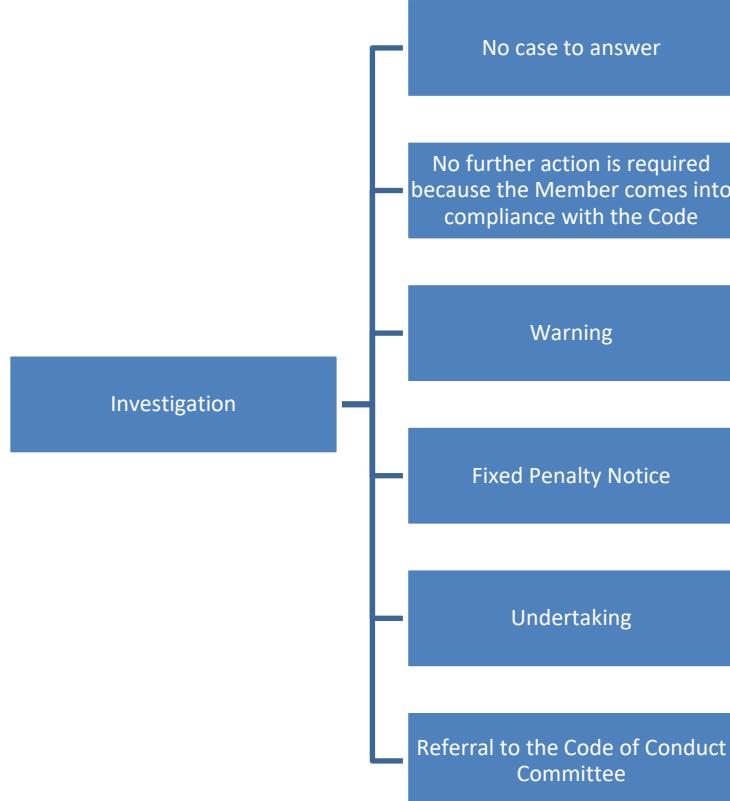
4. Code enforcement

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, 373 (581) files were investigated under the Code. The source of these files is ABTA Customer Support, Members, suppliers 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, 33 (79) cases fell into this category, with Members, for example, improving their procedures or making changes to their website information.

- Improved Procedures: 15
- Resolved: following the Legal Department's approach Member has resolved matters: 10
- Recommendation: following discussions with the Member the Legal Department has provided recommendations on best practice, which Member has accepted and implemented: 8

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, 9 (6) 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, 35 (33) Fixed Penalty Notices were issued.

Fixed Penalty Notices issued:

- *5B Reply to correspondence from client (x 22)*
- *5C Reply to correspondence from ABTA (x 9)*
- *6H Refund Clients without undue delay (x4)*

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, one (no) Fixed Penalty Notice was referred. The Member had not paid or responded to the Fixed Penalty Notice and the Committee increased the fine from £400 to £600.

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 (7) undertakings were requested and 7 (6) were obtained.

Undertakings received for breaches of:

- *1A Accurate Information (x2)*
- *2B Booking Procedures (x2)*
- *2H Foreign & Commonwealth Office Advice*
- *3A Cancellation by Principals and Organisers*
- *6I Public and Products Liability Insurance*

A further 26 (22) 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
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 five (four) occasions during the period.

During the five meetings the Committee considered 26 (22) alleged breaches. The Committee concluded that 24 (21) breaches had occurred. 16 (19) of these were dealt with by way of a fine and 8 (1) by way of a reprimand.

The Committee also issued other remedies as required. It requested 5 (3) undertakings from Members as well as issuing the fine or reprimand, such as to put in place a regular staff training regime covering the issue that was the subject of the breach.

Breaches upheld by the Code of Conduct Committee:

- *1A Accurate Information (x2)*
- *2B Booking Procedures and Information (x2)*
- *2H FCO Advice*
- *3A Cancellation by Principals or Organisers (x2)*
- *3F Compensation for Cancellation or Alterations*
- *3H Overbooking*
- *5C Correspondence with ABTA (x3)*

- 5D *Dealing with Disputes*
- 5G *Rules of ABTA Arbitration* (x2)
- 6G *Payment of Debts*
- 6I *Liability Insurance* (x8)

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 was one (two) appeal during this period. The Appeal Board upheld the decision of the Code of Conduct Committee and confirmed the fine amount.

B. ALTERNATIVE DISPUTE RESOLUTION (ADR)

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, provided by Hunt ADR.

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 13,352 (15,500) 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. Not what I booked (unhappy with booking e.g. resort, hotel)
2. Unsatisfactory (poor accommodation)
3. Illness
4. Building works
5. Service from travel company

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 722 (839) cases that were the subject of an arbitration award. This represents approximately 5% of all complaints received during this period. 507 (536) arbitrations have been found in favour of the applicants and 215 (303) in favour of the Member, which represents a 70% (64%) success rate for the consumer. The average amount claimed by applicants was £3,209 (£2,855) and the average award was £893 (£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.

This year, Hunt ADR carried out 62 conciliations, of which 58 settled amicably, giving a success rate of 93.5%.