

Code of Conduct and ADR Annual Report 2019/2020

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 2019 to 30 June 2020).

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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

a. Primary Authority

During the year, ABTA entered into a Primary Authority partnership with Kent County Council Trading Standards. The Code of Conduct and Guidance on the Code of Conduct were confirmed as assured advice under the partnership. This is a benefit to Members, as if they follow the Code, they can be confident that they are complying with the law, and they can refer to the Primary Authority arrangement provided by ABTA if they are approached by any other Trading Standards authority.

The Primary Authority logo was added to the Code and some minor changes were made. In the Code the definitions were streamlined, and in the Code Guidance there were additions of examples of significant changes after departure, to Standards on Booking Conditions, and to the product information section of Standards on Websites.

b. Other changes

In July 2019, Clause 6I, which requires relevant Members to have public and products liability insurance, was added to the list of clauses for which Fixed Penalty Notices (FPN) can be issued by the Secretariat. This provides flexibility when dealing with breaches of 6I: serious cases will still be referred to the Code of Conduct Committee but less serious cases can receive an FPN if warranted.

In January 2020, the clause on privacy policies was amended. It was moved to 1K and now reads:
1K) Members shall have in place an effective policy for protecting the privacy of Clients, which shall be available to Clients, and which shall include any wording required by ABTA from time to time.

The Guidance on the application of the Code provides suggested wording, which is to ensure that personal data can be passed on in the event of the Member's insolvency.

Also, a new requirement was added to Standards on Booking Conditions. Members who have sales protected by the ABTA scheme of financial protection now need to include a clause in their booking conditions concerning possible fulfilment in the event of their insolvency. Suggested wording is provided.

2. Member Advice and Guidance

a. Calls and emails

Over the year, ABTA's Member advice teams answered 12,101 (14,022) phone calls and 1,847 (3,017) 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 9,958 (5,762) 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: 29,147 (20,931)

Guidance Notes: 6,721 (9,838)

Model documents: 1,583 (2,798).

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.

Effect of Covid-19

This year, the seminar programme had to be halted in February/ March, and several seminars didn't take place or were moved to later in the year e.g. Travel Law. From around April, ABTA brought in a series of webinars.

This makes this year's figures:

- 62 (137) Members attended our seminars on best practice in complaint handling: Complaints Handling Workshop and Managing Customer Complaints.
- 32 (77) Members attended our Beginner's Guide to Travel Law
- 23 (27) attended the seminar on Consumer Law in Marketing and Selling of Holidays
- 47 (42) attended Claims Handling seminars
- 84 attended A Definitive Guide to the Package Travel and ATOL Regulations
- 31 attended A Practical Guide to Arbitration and Conciliation
- 299 took part in a webinar on Delivering Customer Service in a Crisis
- 165 joined the webinar Supply Chain and Contract Risk Management

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 | 5931 (1323) |
| Foreign & Commonwealth Office (FCO) advice and your customers | 393 (281) |
| Introduction to child safeguarding | 533 (372) |
| Implementing child safeguarding and policies | 303 (127) |
| Demystifying accessibility | 286 (151) |
| Inclusive Travel: making business sense | 222 (83) |
| Tackling modern slavery | 391 (80) |
| ACT (Action Counters Terrorism) training | 192 (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.

866 contacts were made with Members during the year to ensure that they complete and return a Liability Insurance Notification Form giving details of insurance cover. This comprises Members trading as a Principal (733 Members as at the end of year 2019-20) and those trading as Organisers of packages but not Principals.

Any Member that does not return the Form is referred to the Code of Conduct Committee. This year, 2 (8) Members were disciplined by the Code of Conduct Committee for breaching clause 6I and, where relevant, required to provide evidence of insurance cover immediately.

Effect of Covid-19

- ABTA has been improving its processes to be able to identify and contact all of the Members acting as Organisers but not Principals. This has been held back by the pandemic as resources had to be diverted away from this work. It will continue to be progressed over the next year.
- Due to the Government shutdown of international travel, some Members have not renewed their liability insurance because they have no clients travelling. They will be required to take out a policy when they have need of it as their business opens up again. Some Members took a break before renewing. The 866 figure therefore includes a small number of duplicates, as we had to contact certain Members more than once.

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, if complaints are being received about a Member then its website can be checked. Also, certain issues are checked as necessary. This year we considered Members acting as agents but also Organisers, to make sure that they had liability insurance and that their booking conditions did not mislead as to their liability for the package holidays they organise.

4. Code enforcement

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

Effect of Covid-19

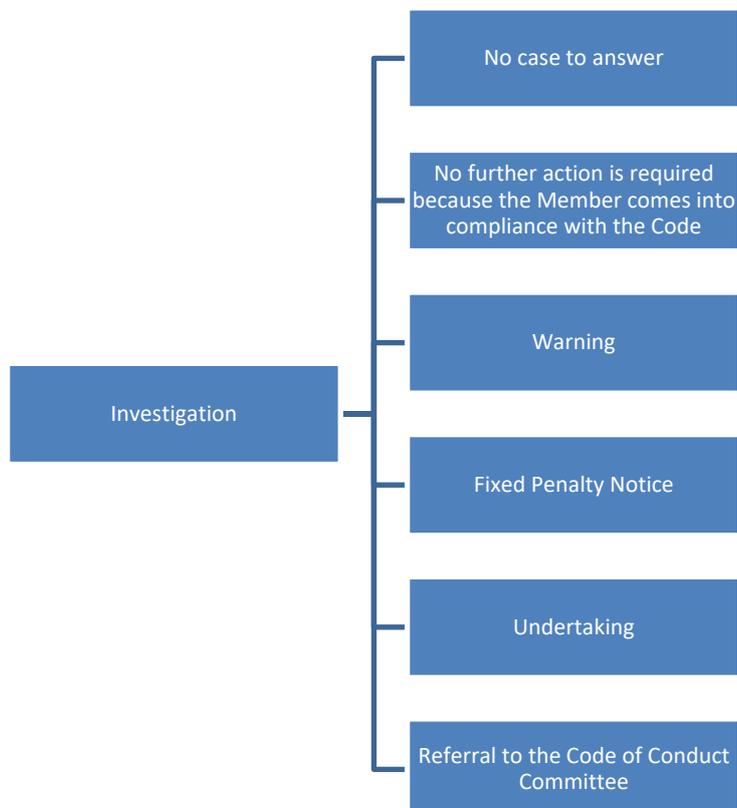
The Government shutdown of international travel meant that Members were overwhelmed with client request for refunds, and with repatriating their clients. ABTA's position was that full refunds were due to clients for cancelled package holidays and Members must not mislead clients on this. The 14-day maximum period normally allowed for refunds, however, was not enforced, due to the exceptional circumstances. ABTA also allowed more time for Members to respond to complaints and arbitration cases.

These measures are reflected in this year's figures. The number of Fixed Penalty Notices is down, as none were issued since March. Cases resolved because the Member came into compliance with the Code are up, as this includes a number of Members that were not offering refunds but altered that when approached under the Code.

a. Code of Conduct Referrals

During the past year, 353 (373) 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, 69 (33) cases fell into this category, with Members, for example, improving their procedures or making changes to their website information.

- Improved Procedures: 16
- Resolved: following the Legal Department's approach Member has resolved matters: 50
- Recommendation: following discussions with the Member the Legal Department has provided recommendations on best practice, which Member has accepted and implemented: 3

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, 10 (9) 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, 19 (35) Fixed Penalty Notices were issued.

Fixed Penalty Notices issued:

- *5B Reply to correspondence from client* (x 13)
- *5C Reply to correspondence from ABTA* (x 4)
- *6H Refund Clients without undue delay* (x2)

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.

Additionally, the Code of Conduct Committee can ask for undertakings when deciding on cases.

This year, 8 (7) undertakings were requested and all were provided.

Undertakings received for breaches of:

- *1A Accurate Information*
- *2B Booking Procedures*
- *2C Information on Financial Protection*
- *2D Data Protection* (x2)
- *3A Cancellation by Principals and Organisers*
- *3B Clients' Options on Cancellation* (x2)

A further 20 (26) 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 |
| Karen Hart | | Lotus International Ltd |
| Heather Ward | | RCL Cruises Ltd |
| Hilary Kett | | TUI UK Ltd |
| Joe Kochanski | | dnata Travel |
| Civil Aviation Authority | | |
| Various Trading Standards Authorities | | |

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

During the three meetings the Committee considered 20 (26) alleged breaches. The Committee concluded that 20 (24) breaches had occurred. 15 (16) of these were dealt with by way of a fine, 2 (8) by way of a reprimand, in respect of 2 others the Member was required to rectify the issues concerned or have its membership suspended, and for 1 no sanction was applied.

The Committee also issued other remedies as required. It requested 1 (5) undertaking from a Member, to comply with the Code requirement to refund clients for cancelled package holidays. In another case, it asked the Membership Committee to look into the type of business declared by the Member and its financial protection arrangements.

The Members paid the fines, and complied with the Committee's requirements for undertakings and improvements to procedures, save for one Member. It did not pay the fines and its membership was terminated.

Breaches upheld by the Code of Conduct Committee:

- 1A *Accurate Information*
- 2B *Booking Procedures and Information* (x3)
- 2C *Financial Protection*
- 2E *Booking Conditions*
- 2Q *Dispatch of Documents* (x2)
- 3A *Cancellation by Principals or Organisers*
- 3B *Clients' Options on Cancellation* (x5)
- 3E *Clients' Options on Significant Alterations*
- 5C *Correspondence with ABTA*
- 5G *Rules of ABTA Arbitration* (x2)
- 6I *Liability Insurance* (x2)

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 no appeals during this period (one last year).

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.

Effect of Covid-19

The Government shutdown of international travel from March meant that 'normal' complaints to ABTA when clients return from holiday reduced to almost nothing. Conciliations, which are for holiday illness or injury claims, are much reduced this year. However, these missing complaints were more than replaced with the issue of refunds for cancelled holidays. It was impossible for Members to refund all their clients within the usual time limit of 14 days. It can be seen below that complaints to ABTA increased, as a result of this, however arbitration cases are down on last year. This is likely to be because ABTA did not hold Members to 14-day refunds. ABTA made clear to Members that full refunds were due for cancelled package holidays. However, if Members couldn't pay straightaway, cases were not progressed to arbitration, rather clients were advised to allow extra time, or amend their holiday, or accept a Refund Credit Note, given the exceptional circumstances.

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 20,121 (13,352) cases in relation to customer issues concerning ABTA Members over the last year.

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. Unsatisfactory (poor accommodation)
2. Not what I booked (unhappy with booking e.g. resort, hotel)
3. Refund
4. Cancellation of holiday
5. Poor health and safety

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 563 (722) cases that were the subject of an arbitration award. This represents approximately 3% of all complaints received during this period. 352 (507) arbitrations have been found in favour of the applicants and 211 (215) in favour of the Member, which represents a 63% (70%) success rate for

the consumer. The average amount claimed by applicants was £3,374 (£3,209) and the average award was £795 (£893).

- 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 14 (62) conciliations, of which 12 (58) settled amicably, giving a success rate of 86% (93.5%).