

Code of Conduct and ADR Annual Report 2020/2021

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 2020 to 30 June 2021).

Contents

A. CODE OF CONDUCT

1. Primary Authority
2. Changes to the Code this year
3. Member Advice and Guidance
 - a. Calls and emails
 - b. Views of ABTA's online guidance
 - c. Seminars and training
4. Code Monitoring
 - a. Liability Insurance
 - b. Website Information
5. Code Enforcement
 - a. Code of Conduct Referrals
 - b. The Code of Conduct Committee
 - c. The Appeal Board

B. ALTERNATIVE DISPUTE RESOLUTION (ADR)

1. ABTA ADR cases
2. Arbitration and conciliation

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. Primary Authority

ABTA has been in a Primary Authority partnership with Kent County Council Trading Standards since 2019. The Code of Conduct and Guidance on the Code of Conduct are 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.

Kent County Council Trading Standards commented on the year:

'It has been a difficult and sometimes overwhelming year with the Covid pandemic, and the travel industry has been one of the worst affected. Purchasing holidays can be one of the highest expenses consumers make and thousands of people had holiday contracts affected by Covid. ABTA has been at the forefront of the travel industry, keeping the precarious balance of protecting their members and consumers.'

Through the Kent Trading Standards Primary Authority Partnership with ABTA, we were able to maintain close links, with regular updates about the emerging situation and the problems this was causing. ABTA also worked with other agencies, including the Competitions and Markets Authority (CMA) and Citizens Advice Consumer Service (CACS) to ensure that businesses were complying with the relevant legislation and adhering to the ABTA code of conduct to ensure, where required, that consumers were receiving refunds or refund credit notes.

I believe this significantly reduced the number of complaints we received. Our regular meetings meant we were aware of what was happening and able to disseminate information to other Trading Standards, which allowed other regulators to provide advice and guidance with confidence.'

2. Changes to the Code this year

a. Code and Guidance

Clause 2H was changed to reflect that the Foreign & Commonwealth Office became the Foreign, Commonwealth & Development Office (FCDO).

Clause 3E was changed to give it wider application. It previously outlined the options for clients if principals or organisers "make" a significant alteration to a booking. The revised wording reads:

Members who are Principals or Organisers shall, where previously confirmed Travel Arrangements are significantly altered, inform Agents and direct Clients without delay and offer Clients the choice of:

- i) accepting the alteration; or*
- ii) cancelling the Travel Arrangements and receiving a full refund of all monies paid. Such refund shall be sent to Agents and direct Clients without delay; or*
- iii) alternative Travel Arrangements of comparable standard, if available.*

The Guidance to the Code in respect of 3E was also altered. It now provides guidance on when the Code of Conduct Committee will normally view FCDO advice against travel as a significant change to a client's package holiday booking.

b. Code of Conduct Committee

Pete Baxter of TUI stood down as Chairman this year, after 12 years on the Committee. He was replaced by Andy Cooper of Contemporary Travel Solutions.

3. Member Advice and Guidance

a. Calls and emails

Over the year, ABTA's Member advice teams answered 6,432 (12,101) phone calls and 3,762 (1,847) 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 10,521 (9,958) 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 several guidance notes on specific legal and compliance topics and model documents such as booking conditions.

Number of page views this year:

Code of Conduct: 16, 504 (29,147)

Guidance Notes: 3,623 (6,721)

Model documents: 611 (1,583).

NB: We updated our cookie policy and options in line with regulations in December 2020 and have seen a marked decrease in recorded traffic to the website as a result. We don't believe fewer people are visiting the website; however we believe (in common with many websites) that some people are opting out and not allowing us to track their behaviour through Google Analytics.

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. Currently, these are delivered online, and this year's figures are:

- 435 Members attended the two Travel Law seminars:
 - 172 in September 2020 and 263 in May 2021
- 414 Members attended A Guide to Refund Credit Notes
- 107 Members attended Redefining Customer Service in Travel
- 274 Members took part in Getting your contracts right – Lessons learned from the pandemic
- 48 attended Data Protection and Cyber Security in Travel
- 500 attended Brexit preparations for travel businesses
- 208 viewed COVID-19 Business Resilience and Support
- 219 attended Customer and Staff Engagement Strategies

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	7389 (5931)
Foreign & Commonwealth Office (FCO) advice and your customers	367 (393)
Introduction to child safeguarding	546 (533)
Implementing child safeguarding and policies	658 (303)
Demystifying accessibility	334 (286)
Inclusive Travel: making business sense	270 (222)
Tackling modern slavery	366 (391)
ACT (Action Counters Terrorism) training	266 (192)

4. 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 6I 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.

845 (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.

Any Member that does not return the Form faces further action under the Code. This year, no Members were referred to the Code of Conduct Committee for failing to renew their policy. One Member received a warning for late notification of its policy renewal.

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 focussed on Members' policies around the restart of travel, and whether they were taking any particular stance on changes and cancellations to bookings due to Covid, to see if we had any concerns under the Code of Conduct. We checked 120 Members' websites.

5. Code enforcement

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

Effect of Covid-19

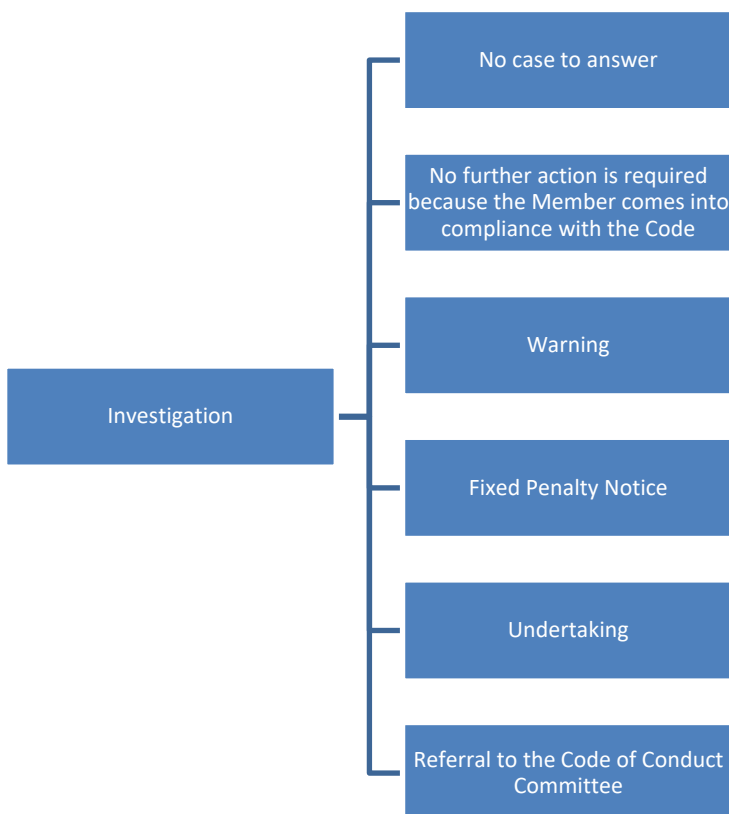
This year, as last year, was substantially affected by the Government shutdown of international travel and by the other effects of the Covid pandemic. Refunds remained the most important topic in our Code work. The

figures show that a lot of Members came into compliance with the Code when we approached them. Given the ongoing difficulties faced by Members, the strict time limits for payment of refunds and responses to correspondence were not routinely enforced, and no Fixed Penalty fines were issued. However, we continued to bring the Code to bear on more serious cases, for example if a Member misled clients or refused refunds, and the Committee dealt with some cases of that nature.

a. Code of Conduct Referrals

During the past year, 360 (353) files were investigated under the Code. The source of these files is ABTA Customer Information, 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 several 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, 100 (69) cases fell into this category, with Members, for example, improving their procedures or making changes to their website information.

- Improved Procedures: 10 (16)
- Resolved: following the Legal Department's approach Member has resolved matters: 85 (50)

- Recommendation: following discussions with the Member the Legal Department has provided recommendations on best practice, which Member has accepted and implemented: 5 (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, 4 (10) 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, no (19) Fixed Penalty Notices were issued.

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, 10 (8) undertakings were requested, and all were provided.

Undertakings received for breaches of:

- *2B Booking Procedures (x2)*
- *3B Clients' Options on Cancellation (x7)*
- *3E Clients' Options on Significant Alterations*

A further 17 (20) 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:

Andy Cooper	Chairman	Contemporary Travel Solutions 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
Tom Spriggs		TUI UK Ltd
Joe Kochanski		dnata Travel
Civil Aviation Authority		
Various Trading Standards Authorities		

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

During the three meetings the Committee considered 17 (20) alleged breaches. The Committee concluded that 16 (20) breaches had occurred. 14 (15) of these were dealt with by way of a fine, 1 (0) Member had its membership terminated as it had breached a previous undertaking to the Committee, and in 1 (0) case a penalty was not decided upon, pending the Member refunding the clients. There was 1 (0) case adjudged not proved, and 0 (2) reprimands this year.

The Committee also issued other remedies as required. It requested 8 (1) undertakings from Members, for example to train staff on the Code and legal requirements, and to review booking conditions to ensure legal compliance.

Last year, one Member didn't pay the fine levied by the Committee and lost its membership. This year, all the Members complied with the decisions, or appealed, and there were no membership terminations for inaction.

Breaches upheld by the Code of Conduct Committee:

- 1D Advertising
- 2B Booking Procedures and Information (x3)
- 3B Clients' Options on Cancellation (x4)
- 5B Correspondence with Clients (x2)
- 5C Correspondence with ABTA (x2)
- 5D Dealing with Disputes (x3)
- 6A Standard of Service

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 (also none 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 has again affected the number of cases going through our ADR schemes. Most of the complaints have been about refunds for holidays cancelled or not taken, rather than normal post-holiday complaints. Arbitration cases are down and conciliation cases, which are for holiday illness or injury claims, have reduced to almost nothing.

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 15,988 (20,121) 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.

2. Arbitration and conciliation

Those complaints that are not resolved through the ADR scheme can progress to the Arbitration and Conciliation Schemes 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 226 (563) cases that were the subject of an arbitration award. This represents approximately 1.4% (3%) of all complaints received during this period. 219 (352) arbitrations have been found in favour of the applicants and 7 (211) in favour of the Member, which represents a 97 % (63%) success rate for the consumer. The average amount claimed by applicants was £3,523 (£3,374) and the average award was £1,641 (£795).

- 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 3 (14) conciliations, of which 1 (12) settled amicably, giving a success rate of 33% (86%).