

# Code of Conduct and ADR Annual Report 2021/2022

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 2021 to 30 June 2022).

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For information on ABTA and to view the Code and its Guidance, please go to [www.abta.com](http://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](#) co-ordinated 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:

‘This year has seen a resurgence of consumers being able to enjoy holidays and adventures around the globe as Covid restrictions have lifted and I’m sure this has been a great relief to consumers and holiday companies alike.

ABTA is at the forefront of supporting the travel industry in recovering from the Covid pandemic and together through our Kent Trading Standards Primary Authority Partnership we can assist businesses and consumers with regaining confidence in travelling again.

Our partnership also enables us to monitor any issues that may arise with ABTA Members nationally and I am pleased to report there have been no significant issues raised with us this year.

There will be further tough times ahead with the current cost of living crisis looming large, but holidays and adventures are an important part of people’s lives and it is essential that Kent Trading Standards and ABTA retain their strong ties to assist this sector in continuing to bounce back after a devastating few years.

This year our regular contact has meant that ABTA were able to provide training to our Southeast Regional Trading Standards Officers on updates from the travel industry which has meant we can keep abreast of current issues and provide advice and guidance to assist everyone in enjoying many adventures and making new memories with family and friends.’

### 2. Changes to the Code this year

The Guidance to the Code was altered in respect of clause 1B, which sets out standards on booking conditions that Members must follow. It is now clearer that booking conditions, if they contain a clause about passing on surcharges to clients, must comply with the law and the Code and state the Code’s rule on absorbing an amount equal to 2% of holiday cost before surcharging.

### 3. Member Advice and Guidance

#### a. Calls and emails

Over the year, ABTA’s Member advice teams answered 3,859 (6,432) phone calls and 1,359 (3,762) 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 4,439 current subscribers.

Members have access to a range of online resources on [www.abta.com](http://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:	12,790 (16,504)
Guidance Notes:	2,119 (3,623)
Model documents:	422 (611).

(These figures are generated by Google Analytics, therefore they don't include viewers that opt out of tracking.)

### 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:

- 95 Members attended the Travel Law seminar
- 150 Members attended the Travel Regulations conference
- 79 attended two seminars on Complaint Handling in Travel
- 39 attended the seminar on Consumer Law in Marketing and Selling of Holidays
- 20 attended Claims Handling in Travel
- 57 attended An Essential Guide to the Package Travel Regulations

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	5362 (7389)
Foreign & Commonwealth Office (FCO) advice and your customers	143 (367)
Introduction to child safeguarding	387 (546)
Implementing child safeguarding and policies	124 (658)
Demystifying accessibility	122 (334)
Inclusive Travel: making business sense	90 (270)
Tackling modern slavery	121 (366)
ACT (Action Counters Terrorism) training	92 (266)
Sustainability	120 (new course)

## 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.

All relevant Members were contacted to ensure that they complete and return a Liability Insurance Notification Form giving details of insurance cover. 701 replies were received during the year.

Any Member that does not return the Form faces further action under the Code. This year, 2 (no) Members were referred to the Code of Conduct Committee for failing to renew their policy. Where relevant, Members were fined and required to provide evidence of insurance cover immediately. Additionally, 4 (1) Members received a warning for late notification of their 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 provided with the checklist, and, in the event of any queries, given advice to ensure compliance.

Among existing Members, this year we focussed on:

- FCDO advice

As travel restarted following the pandemic, destination travel advice was vital for consumers. The Code requires Members to direct clients to the Foreign, Commonwealth & Development Office's (FCDO) [advice](#). We reminded Members of this and monitored websites to see that a link was provided in a prominent place. 49 websites were checked.

- Surcharges

Issues such as fluctuating fuel prices due to the Ukraine war meant that passing on increases to clients might have been necessary. The Package Travel Regulations and the Code set out a process that must be followed. We checked Members websites and booking conditions to see that the wording was correct and clear. 100 were checked.

- Travel agents organising package holidays

The current Package Travel Regulations increase the likelihood that travel agents will be organising their own packages. We have taken action to see that agent Members are aware of this, and that they have liability insurance to protect themselves. This year, we checked 150 websites and requested evidence of insurance as necessary.

## 5. Code enforcement

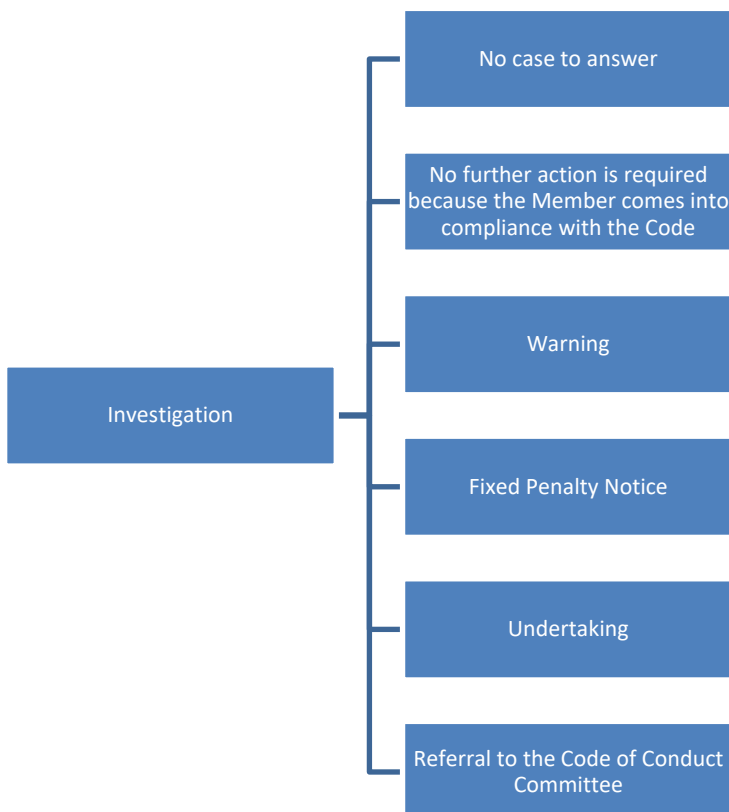
If necessary, on receipt of a complaint, ABTA acts to see that the Code is complied with.

The figures below show that case numbers are down this year. This can be attributed to a sharp reduction in complaints about refunds for cancelled holidays, which have categorised the last two years, and the fact that regular post-holiday complaints are returning but are not yet at pre-pandemic levels. ABTA did not issue fixed penalty fines to its Members during the difficulties of the pandemic, but that policy changed during the year, so fixed penalties have been and will be issued where appropriate. Members were informed of this change.

### a. Code of Conduct Referrals

During the past year, 201 (360) 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, 28 (100) cases fell into this category, with Members, for example, improving their procedures or making changes to their website information.

- Improved Procedures: 3 (10)
- Resolved: following the Legal Department's approach Member has resolved matters: 24 (85)
- Recommendation: following discussions with the Member the Legal Department has provided recommendations on best practice, which Member has accepted and implemented: 1 (5)

## 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, 8 (4) 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, 1 (no) Fixed Penalty Notices was issued.

Fixed Penalty Notices issued:

- *6H Refund Clients without undue delay*

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 Fixed Penalty Notice was referred. The Member disputed the Fixed Penalty, however, when the case was heard by the Code of Conduct Committee, it increased the fine.

## 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, 3 (10) undertakings were requested, and 2 (10) were provided.

Undertakings received for breaches of:

- *6E Misrepresentation of ABTA Membership*
- *6I Public and Products Liability Insurance*

A further 6 (17) 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
Civil Aviation Authority		
Various Trading Standards Authorities		

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

One meeting was concerned with discussing how the Code deals with surcharges. The other two meetings considered breaches of the Code as normal, and during the two meetings the Committee considered 6 (17) alleged breaches. It concluded that 5 (16) breaches had occurred, and all 5 (14) were dealt with by way of a fine this year.

The Committee also issued other remedies as required. It requested 2 (8) undertakings from Members, to comply with an arbitration award made to a client, and to provide a liability insurance policy without further delay.

One Member did not pay the fine and had its membership terminated. Another Member appealed its fines.

#### Breaches upheld by the Code of Conduct Committee:

- 3B *Clients' Options on Cancellation*
- 5G *Rules of ABTA's ADR Schemes*
- 6H *Client Refunds (x2)*
- 6I *Public and Products Liability Insurance*

### 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 1 (no) 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.

The figures below show that ADR cases are still down on pre-pandemic levels. Last year, there was a large number of cases concerning refunds for holidays; this year, those have fallen away and more normal post-holiday complaints have started to recover. Arbitration cases are still considerably down (pre-pandemic cases were around 7-800).

### 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 Information department opened 7,662 (15,988) 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 155 (226) cases that were the subject of an arbitration award. This represents approximately 2% (1.4%) of all complaints received during this period. 106 (219) arbitrations have been found in favour of the applicants and 49 (7) in favour of the Member, which represents a 68% (97 %) success rate for the consumer. The average amount claimed by applicants was £3,473 (£3,523) and the average award was £1,380 (£1,641).

- 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 no (3) conciliations.