

Code of Conduct and ADR Annual Report 2015/2016

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.

The Code delivers higher standards as it guides Members towards best practice. ABTA actively monitors compliance and provides advice to Members on how to comply and this leads to improvements in standards. The Code builds confidence as compliance and enforcement action is taken where necessary following receipt of a complaint.

ABTA is approved as an ADR body by the Chartered Trading Standards Institute in respect of its Customer Support function. ABTA also offers an Arbitration Scheme provided by the Centre for Effective Dispute Resolution which is also an Approved ADR body.

This report presents the facts and figures for code enforcement and monitoring and for the operation of the ADR schemes for the past year (1 July 2015 to 30 June 2016).

The current version of the Code was issued on 7 April 2015.

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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.

1. ADR and Code enforcement

a. ABTA's Customer Support role

ABTA provides guidance and information to travel service customers and in some cases is able to assist in resolving customer complaints, but its main role is to advise customers on the options open to them to resolve their disputes.

If the customer has been unable to resolve a complaint with an ABTA Member, ABTA offers its Alternative Dispute Resolution (ADR) scheme to help bring the parties together. Over the last year ABTA opened 12,962 (13,478) cases in relation to customer issues concerning its Members. 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 average time taken for complaints to be dealt with through the ADR scheme is 23 days.

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

This year there were 431 (299) cases that were the subject of an arbitration award.

266 (289) arbitrations have been found in favour of the customer and 165 (110) in favour of the Member, which represents a 62% (63%) success rate for the customer.

During the year there were nine instances of four companies failing to pay Arbitration awards on time. All cases were dealt with under the ABTA Code of Conduct and the awards were settled.

ABTA Customer Support Advisers also consider consumer complaints with a view to the Code of Conduct. Any cases which they believe show a possible breach of the Code will be referred to the code investigator.

b. Developments this year

The most common reasons given by customers for complaining about their travel services during the year were:

- Accommodation was not as booked
- Misleading advice
- Misleading advert
- Failure to pay a refund due
- Cancellation of travel services

This is in line with previous years.

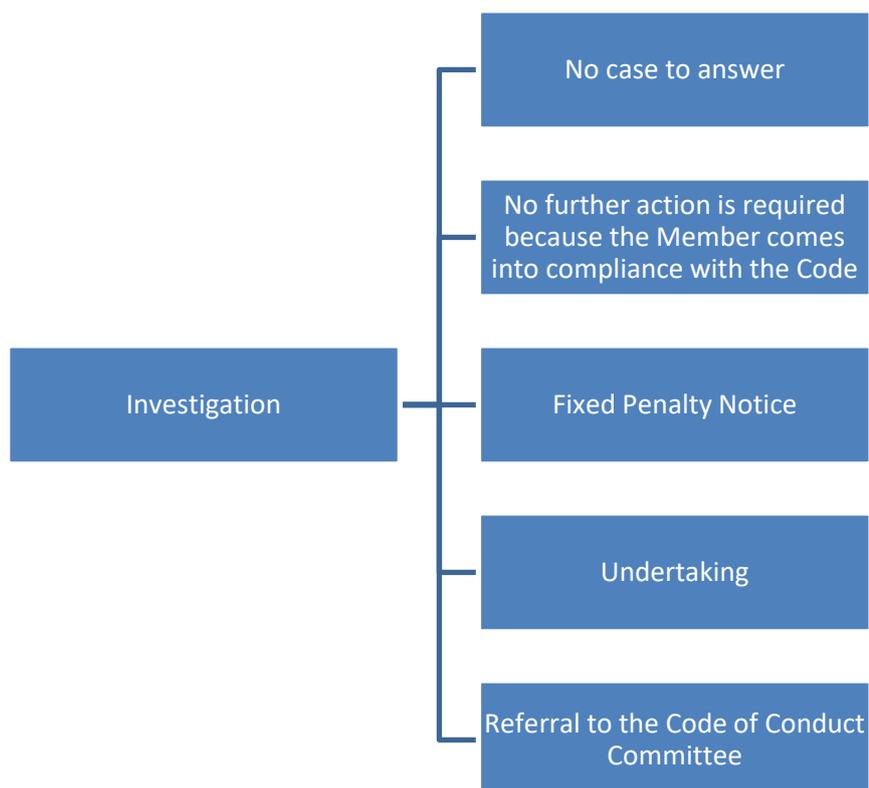
In addition to those matters, concerns were raised about the failure by travel companies to pass on to their customers notifications of any significant changes to passport or visa requirements between the time of booking and the date of travel. A specific obligation has been introduced into the ABTA Code of Conduct to address this concern.

c. Code of Conduct referrals

ABTA has a Code of Conduct team within the Legal Department, which investigates alleged breaches of the Code.

During the past year, 533 (275) files were investigated under the Code of Conduct. These files come from the ABTA Customer Support Advisers, 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:



i. No further action is required because the Member changes procedures to comply with the Code

This year, 74 (54) cases fell into this category, with Members, for example, improving their procedures or making changes to their website information.

ii. 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, 73 (16) Fixed Penalty Notices were issued.

Fixed Penalty Notices issued:

- *5B Reply to correspondence from client (x 9)*
- *5C Reply to correspondence from ABTA (x 64)*

Of the 73 (16) Fixed Penalty Notices that were issued, seven (two) were referred to the Code of Conduct Committee for a hearing as the Member failed to pay or requested a hearing. In one case the Committee upheld the £400 fine. In two cases it increased the fines to £500 and £600. In one case it reduced it to £200 and in one instance it changed it to a reprimand.

iii. 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, 5 (10) undertakings were requested and 5 (9) were obtained.

Undertakings received for breaches of:

- *1A Accurate Information*
- *2B Booking Procedures*
- *5D Dealing with Disputes*
- *6A Standard of Service*
- *6I Liability Insurance*

A further 42 (43) alleged breaches of the Code that were not dealt with by way of Fixed Penalty Notice or Undertaking were referred to the Code of Conduct Committee for a hearing.

d. The Code of Conduct Committee

The Code of Conduct Committee comprises Members of ABTA, both tour operators and travel agents, and representatives of the Trading Standards Authorities. 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.

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

During the five (four) meetings the Committee considered 42 (43) alleged breaches. The Committee concluded that 38 (39) breaches had occurred. 36 (38) of these were dealt with by way of a fine and 2 (1) by way of a reprimand.

Breaches upheld by the Code of Conduct Committee:

- 1A *Accurate Information* (x1)
- 1D *Advertising* (x1)
- 2B *Booking and documentation procedures* (x4)
- 2G *Passport and visa information* (x1)
- 2Q *Dispatch of documents* (x1)
- 3A *Cancellation by Principals* (x1)
- 3C *Notification of Alterations* (x2)
- 3E *Clients' Options on Significant Alterations* (x2)
- 3I *Building Works* (x2)
- 5B *Correspondence with Clients* (x1)
- 5C *Correspondence with ABTA* (x9)
- 5D *Dealing with Disputes* (x1)
- 5E *Agents' Responsibilities* (x1)
- 5G *Rules of ABTA Arbitration* (x9)
- 6I *Liability Insurance* (x2)

e. 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.

2. Code monitoring

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

All Members selling as a Principal (801 Members) were contacted during the year to ensure that they complete and return a Liability Insurance Notification Form giving details of insurance cover.

If Members don't return the Form giving details of insurance cover, this is an apparent breach of the Code which will be considered by the Code of Conduct Committee. This year, two Members were fined by the Code of Conduct Committee. The companies subsequently provided evidence of insurance cover, meaning that all principal Members had demonstrated compliance.

b. Advertising

This year, as in previous years, monitoring was carried out to make sure that Members' websites aren't misleading. Clause 1D of the Code requires that advertising must not contain anything that is likely to mislead the public.

Issues looked at this year include inclusive pricing, price information on optional extras, the presentation of optional extras, financial protection information, and providing the name of the airline.

Monitoring is ongoing and, where necessary, Members are being required to make changes to the information displayed on their websites.

3. Ferry complaints handling

ABTA has been appointed by the Department for Transport as the voluntary Complaint Handling Body (CHB), to investigate and assist in resolving complaints in respect of EU Regulation 1177/2010. This regulation deals with matters in relation to both the treatment of passengers with a disability, and the treatment of passengers who experience a delay or cancellation to scheduled ferry crossings in England and Wales. We do not deal with any other complaints such as quality of service or staffing issues.

Since July 2015 ABTA has assisted with 44 complaints. 34 complainants contacted ABTA directly and ten were advised by a ferry operator to contact ABTA.

Correspondence has been received from customers of eight ferry operators, of which one is a Member of ABTA. In addition, ABTA has received two complaints in relation to ferry agents, who are not ABTA Members, and one regarding an overseas ferry company outside England and Wales.

The complainants have raised concerns regarding the ferry operators' obligations in relation to the following articles of Regulation 1177/210.

Article 16 – Information in the event of cancelled or delayed departures – (four)

Article 17 – Assistance in the event of cancelled or delayed departures – (eight)

Article 18 – Re-routing and reimbursement in the event of cancelled or delayed departures – (five)

Article 19 – Compensation of the ticket price in the event of delay in arrival – (19)

ABTA has also received complaints that were not in relation to EU Regulation 1177/2010. These covered issues such as damage to vehicles, carriage of animals, embarkation facilities, cancellation fees, agent booking errors and the lack of a night club on-board.

Following investigation of the complaints ABTA found that in 19 cases there had been no breach of EU Regulation 1177/2010. In 11 cases it was found that the issues concerned did not fall within the EU Regulations. In seven cases compensation was found to be due and the ferry operators subsequently compensated the passenger. In five cases the client was advised to correspond with the ferry operator directly and they are either awaiting a reply (two) or have resolved the matter. ABTA has had to refer one customer to the National Enforcement Body (NEB) in Ireland as it did not involve a crossing within England and Wales, and one has been referred to the NEB for England and Wales.