

30 July 2014
FOIA reference: F0001995

Dear XXXX

I am writing in respect of your recent request of 8 July 2014, for the release of information held by the Civil Aviation Authority (CAA).

Your request:

“How many passenger claims did you provide a negative ruling on based on the NEB Guidance List of Extraordinary Circumstances?”

Our response:

Having considered your request in line with the provisions of the Freedom of Information Act 2000 (FOIA), we are pleased to be able to provide the information below.

It might be helpful if we explain that we do not make a ruling as such; we will provide a view which is not legally binding.

The CAA has taken a view in 9747 passenger claims assessed in line with the NEB guidance, that airlines have demonstrated compensation was not due in the context of the guidance and the “extraordinary circumstances” exemption in Regulation (EC) 261/2004.

You will be aware that the issue of the “extraordinary circumstances” exemption in Regulation (EC) 261/2004 was considered in the recent *Jet2 v Huzar* ruling handed down by the Court of Appeal on 11 June. Jet2 filed their grounds of appeal with the Supreme Court on 8 July, so the final impact may not be clear for many months yet. However, as it now stands, the “extraordinary circumstances” exemption is still in the law, but will be narrower as it will not apply to the kind of technical issues that are normal in running an airline.

Unfortunately, there will be a period of uncertainty until the Supreme Court makes a decision on whether it will hear the appeal. We expect that decision to be taken later this year. If the Supreme Court refuses the appeal, then the current judgment will apply. If the Supreme Court accepts that it will hear the appeal, then it will take some time until the case is actually heard, and its judgment issued.

We will continue to accept complaints from passengers coming to us about delays due to

Civil Aviation Authority

Aviation House GW Gatwick Airport South Crawley West Sussex England RH6 0YR www.caa.co.uk
Telephone 01293 768512 foirequests@caa.co.uk

technical problems and we will keep these complaints open, pending a decision from the Supreme Court, but in the interim we have suspended our use of the NEB guidance for claims that fall within the scope of the Huzar ruling.

If you are not satisfied with how we have dealt with your request in the first instance you should approach the CAA in writing at:-

Mark Stevens
External Response Manager
Civil Aviation Authority
Aviation House
Gatwick Airport South
West Sussex
RH6 0YR

mark.stevens@caa.co.uk

The CAA has a formal internal review process for dealing with appeals or complaints in connection with Freedom of Information requests. The key steps in this process are set in the attachment.

Should you remain dissatisfied with the outcome you have a right under Section 50 of the Freedom of Information Act to appeal against the decision by contacting the Information Commissioner at:-

Information Commissioner's Office
FOI/EIR Complaints Resolution
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

www.ico.gov.uk/complaints.aspx

Should you wish to make further Freedom of Information requests, please use the e-form at <http://www.caa.co.uk/foi>.

Yours sincerely

Rick Chatfield
Information Rights and Enquiries Officer

CAA INTERNAL REVIEW & COMPLAINTS PROCEDURE

- The original case to which the appeal or complaint relates is identified and the case file is made available;
- The appeal or complaint is allocated to an Appeal Manager, the appeal is acknowledged and the details of the Appeal Manager are provided to the applicant;
- The Appeal Manager reviews the case to understand the nature of the appeal or complaint, reviews the actions and decisions taken in connection with the original case and takes account of any new information that may have been received. This will typically require contact with those persons involved in the original case and consultation with the CAA Legal Department;
- The Appeal Manager concludes the review and, after consultation with those involved with the case, and with the CAA Legal Department, agrees on the course of action to be taken;
- The Appeal Manager prepares the necessary response and collates any information to be provided to the applicant;
- The response and any necessary information is sent to the applicant, together with information about further rights of appeal to the Information Commissioners Office, including full contact details.