

31 July 2014
FOIA reference: F0001996

Dear XXXX

I am writing in respect of your recent request of 9 July 2014, for the release of information held by the Civil Aviation Authority (CAA).

Your request:

1. *the total number of complaints raised with the CAA in each year since 261/2004 came into force;*
2. *a breakdown of the types of these complaints (i.e. what proportion arose out of alleged delay, cancellation, denied boarding, downgrading, or failure to fulfil duty-of-care obligations under arts.8 and 9)*
3. *information regarding the frequency with which the CAA has employed each of the "enforcement tools" at its disposal in connection with these complaints (e.g. commencing Criminal proceedings, issuing Enforcement Orders, providing Written Warnings, etc.)*
4. *any data regarding the effectiveness of these measures / the impact the CAA's involvement in connection with complaints under 261/2004*
5. *any data on the number of complaints subsequently taken to court*
6. *a summary of the internal procedure adopted by the CAA in handling a complaint and deciding on the appropriate enforcement tool to be adopted. Any internal documents that contain equivalent information would be satisfactory instead of a summary (particularly if this is less onerous for you).*

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.

1. Data for passenger complaints received by the CAA since Regulation (EC) 261/2004 came into force can be found on the CAA's website at the link below:

<http://www.caa.co.uk/default.aspx?catid=80&pagetype=88&pageid=27&sglid=27>

Details of complaints received in 2005 and 2006, which are not published on our website, are provided in attachment 1.

This list records all the complaints, including those related to the Regulation, that have been received by the CAA. Please note some complaints have been referred to other National Enforcement Bodies (NEB) or organisations, or have not have not been taken up as they were outside the scope of the relevant legislation or the CAA's remit.

2. A breakdown of complaint types is included in the link above. However, due to system limitations, changes in EC law, changes in our complaint handling and recording processes over time and more recently a new on-line complaint submission form, complaint classifications are not always compatible.

The CAA records the primary reason for the complaint and for some complaint types, sub-classifications. Alleged infringements of Regulation (EC) 261/2004 in respect of failure to fulfil duty of care obligations under articles 8 and 9 are not recorded in a reportable format in all cases, but may be annotated on our systems as free text.

Our complaint databases do not capture data that would allow this information to be retrieved in any more detail without manually checking individual (approximately 48,000) case records.

3. The CAA has not taken criminal proceedings to enforce Regulation (EC) 261/2004. We have a range of other enforcement tools available to us as set out in our published enforcement policy:

<http://www.caa.co.uk/docs/33/CAP%201018%20Guidance%20on%20Consumer%20Enforcement.pdf>

The table below details the frequency that enforcement tools have been used.

Year	Enforcement tools used	Number of times enforcement tools employed
2005	Data not held	Data not held
2006	Data not held	Data not held
2007	Data not held	Data not held
2008	Data not held	Data not held
2009	Data not held	Data not held
2010	Data not held	Data not held
2011	Phone calls, meetings, letters, emails, Undertakings under Part 8 Enterprise Act, compliance monitoring	17
2012	Phone calls, meetings, letters, emails, Undertakings under Part 8 Enterprise Act, compliance monitoring	12
2013	Phone calls, meetings, letters, emails, Undertakings under Part 8 Enterprise Act, compliance monitoring	6

4. The impact of the CAA's involvement in connection with complaints under 261/2004 can be measured in terms of the level of compensation secured for passengers. Since a Court of Justice of the European Union (CJEU) ruling on 23 October 2012 extended the rights of passengers to compensation for certain lengthy delays, the CAA have secured approximately €4 million in compensation for passengers through our free mediation service.
5. The CAA does not record the number of complaints subsequently taken to court by passengers.
6. The internal procedure for handling a complaint is published on the CAA's website at the below:

http://www.caa.co.uk/docs/2211/CAA%20complaint%20handling%20process%20_2.pdf

If the complaint falls within the CAA's remit and we consider there are grounds to take up the complaint with the airline, we will request additional information from the airline set out in the pro forma attached (see attachment 2).

On receipt of the completed pro forma, the CAA may challenge the position taken by the airline in order to take a view on either the right to compensation, redress or breaches of the Regulation.

Our enforcement powers do not cover obtaining redress for individual consumers and we do not have legal powers to impose a solution on an airline in the same way as an ombudsman type scheme. We do use information provided in complaints to underpin our enforcement work, but we do not generally take enforcement action based on the facts in a single complaint - rather we look to ensure future compliance by addressing systemic non-compliance by a business.

Our powers, under the Enterprise Act 2002, are to take action to ensure businesses change their practices and comply with the law for the benefit of consumers generally in line with our enforcement policy.

You may 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 problems 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 technical problems and we will keep these complaints open, pending a decision from the Supreme Court.

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.

Airline_Ref	Airline	Fltno	EC_Departure	EC_Air_Regist	EC_Air_Type	EC_Depart	EC_To	EC_Distance_
SYSTEM	SYSTEM	SYSTEM	Scheduled time of departure (local time)	Aircraft registration	Aircraft type	Departure airport (IATA code)	Arrival airport (IATA code)	Sector length (km)

EC_Group	EC_Type	EC_Delay_Min	EC_Reason	EC_Fault_Time	EC_Fault_Time	EC_Proximity	EC_Actual_Time	EC_Summary
				Date and time (local) the fault was discovered (if tech fault)	Date and time (local) the aircraft was certified as serviceable (if tech)	Proximity of the delayed / cancelled flight from the end of original ex-circs event (specified in number of rotations)	Actual date and time of departure (local time)	Extraordinary circumstance (Y / N / Neither/No record)
Number of passengers booked on flight (if cancelled) or on board (if delayed)	Cancellation or delay?	If delay, delay on arrival (minutes)	Brief reason for cancellation / delay	Date and time (local) the event started (if weather, strikes, etc)	Date and time (local) the event stopped (if weather, strikes etc)			

EC_Code	EC_Comment	EC_RM_Comr	NON_EC_Con	NON_EC_Dec	EC_CAA_View	EC_CAA_Com	EC_CAA_Reas	EC_CAA_Date
	Explanation of Extraordinary circumstance 'Reason Code' from EU list - if not on list state reason)	Explanation of why the extraordinary circumstances defence applies in this case	Explanation of the reasonable measures deployed to avoid the disruption	Explanation of why decision was taken for NON_EC cases	Outcome of the assessment	INTERNAL_CA A Comment to EC Airline Assessment	INTERNAL_CAA INTERNAL_Rea son Code	INTERNAL_Dat e of CAA Assessment (EC)

Case receipt
date

NONEC_CAA_ NONEC_CAA_ NONEC_CAA_ Batch_Issue Batch_Receip InternalReview InternalReview Internal_FLAC

	INTERNAL_CA			SYSTEM_Date		SYSTEM_Date	
	A Comment to	INTERNAL_Dat	SYSTEM_Date	Case was	SYSTEM_Date	Case was	
	NON_EC	e of CAA	Case was	received back	Case was sent	received back	
INTERNAL_CA	Airline	Assessment	batched to	from Airline	for Internal	from Internal	SYSTEM_Com
A View	Assessment	(NON_EC)	Airline	(Re-assessed)	Review	Review	plaint Action

	2005	2006			
Airline Failure	18	10			
Baggage	452	759			
Cancellation 261/2004	1583	2383			
Cancellation non 261/2004	83	56			
Delay 261/2004	1719	1079			
Delay non 261/2004	163	65			
Check-in problems	63	68			
Codeshare	2	0			
Denied Boarding	170	258			
Disruptive passengers	18	39			
Diverted flight	9	58			
Documents, passports & visa's	48	70			
Downgrade	0	1			
Fares	23	31			
Ground Services	22	78			
In-flight service	71	99			
Injury sustained on board	17	15			
Insurance	12	11			
Medical: Effects of flying	13	4			
Missed connection	6	82			
Other	75	47			
Overbooking (outside the scope of Reg261/2004)	62	47			
Reconfirmation	1	0			
Refunds	90	221			
Reservation dispute	183	278			
Safety	42	40			
Schedule changes	93	109			
Seating	62	82			
Security procedures	12	16			
Special needs	66	60			
Taxes, fees and charges	37	30			
Ticketing Problem	76	63			
	5291	6159			