

25 September 2015

The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015

Required Knowledge and Skills

Under the ADR regulations Schedule 3(3)(a) “Expertise, Independence and Impartiality” an ADR entity must ensure that “an ADR official possesses a general understanding of the law and the necessary knowledge and skills relating to the out-of-court or judicial resolution of consumer disputes, to be able to carry out his or her functions competently”. In our guidance for ADR applicants we have said that we will maintain a webpage of information relating to the areas of consumer aviation law pertaining to the disputes which we would like to see covered. This document constitutes that webpage via a link from the CAA website.

Legislation:

- EU Directive 261/2004 on compensation for denied boarding, delays, cancellations <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L .2004.046.01.0001.01.ENG>
- EU Directive 1107/2006 concerning the rights of passengers with disabilities/reduced mobility when travelling by air
<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L .2006.204.01.0001.01.ENG>
- The Civil Aviation (Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) Regulations 2014 (contains injury to feelings remedy) (regulation 24)
http://www.legislation.gov.uk/uksi/2014/2833/pdfs/uksi_20142833_en.pdf
- Air Services Regulation EC Regulation No 1008/2008 (ASR)
- Carrier Identity Regulation EC Regulation No 2111/2005 (CIR)
- Consumer Protection from Unfair Trading Regulations 2008 (CPRs)
- Unfair Terms in Consumer Contracts Regulations 1999 (UTCCRs)
- The Electronic Commerce (EC Directive) Regulations 2002 (ECR)
- The Consumer Rights (Payment Surcharges) Regulations 2012 (PSRs)
- Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (CCRs)
- Package Travel, Package Holidays and Package Tour Regulations 1992 (PTR)
- Montreal Conventions

Guidance:

- The CAA and CMA (formerly the OFT) have published joint “Guidance on the requirements of consumer law applicable to the sale and advertising of flights and holidays”.
<http://www.caa.co.uk/docs/33/CAP1015CAAOFTEApplicableConsumerLawGuidance.pdf>

- The ASR contains provisions relating to the pricing of air tickets and seeks to improve price transparency by clarifying that the final price to be paid includes all applicable fares, charges (including airport charges), taxes and fees. Airlines, and all those selling air services, are required to display a final price that is inclusive of, and gives details of, all unavoidable and foreseeable charges, including airport charges. Further information about the ASR can be found at: <http://www.caa.co.uk/docs/33/CAP1015CAAOFTEApplicableConsumerLawGuidance.pdf>

- Transport and service providers are subject to the Equality Act 2010. It is illegal to *“discriminate, harass or victimise another person because they have any of the protected characteristics. There is also protection against discrimination where someone is perceived to have one of the protected characteristics or where they are associated with someone who has a protected characteristic.”* The *“protected characteristics”* under the Act are (in alphabetical order):
 - *Age*
 - *Disability*
 - *Gender reassignment*
 - *Marriage and civil partnership*
 - *Pregnancy and maternity*
 - *Race*
 - *Religion and belief*
 - *Sex*
 - *Sexual orientation*

Discrimination means treating one person worse than another because of a protected characteristic (known as direct discrimination) or putting in place a rule or policy or way of doing things that has a worse impact on someone with a protected characteristic than someone without one, when this cannot be objectively justified (known as indirect discrimination).” (text taken from <http://www.equalityhumanrights.com/private-and-public-sector-guidance/guidance-all/faqs>)

- There is also likely to be a new Consumer Rights Act published in 2015 which ADR entities will need to ensure staff are aware of as relates to airline/consumer interactions.

- There may also be occasions when human rights considerations impact upon dispute handling and so an awareness and understanding of the of the Human Rights Act 1998 article 6 right to a fair hearing would be beneficial.