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trading standards law explained

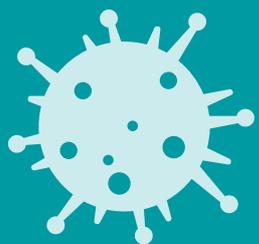
Coronavirus bulletin



Business in Focus



Travel



Travel

The current picture

Travelling overseas?

The implications of the current COVID-19 pandemic are widespread. The government has issued a statement advising against all but essential unnecessary foreign travel (see <https://www.gov.uk/foreign-travel-advice>)

However, travel to some countries and territories is currently exempted from this as they have been assessed as no longer presenting an unacceptably high risk to British nationals. The list contains most EU destinations as well as islands of the Americas, countries in the Asia-Pacific area and a couple of others. The current list of exemptions is here:

<https://www.gov.uk/guidance/coronavirus-covid-19-countries-and-territories-exempt-from-advice-against-all-but-essential-international-travel>

The FCO recommends that travellers:

- read the travel guidance ahead of travel (<https://www.gov.uk/guidance/travel-advice-novel-coronavirus>)
- read the specific travel advice for your destination (e.g. for current entry requirements and local coronavirus measures in place)
- sign up for email alerts for Travel Advice to be informed of changes as they arise

Travellers into the UK must self-isolate for 14 days, if arriving from outside of the common travel area. In England these measures have been eased <https://www.gov.uk/guidance/coronavirus-covid-19-travel-corridors>

Separate arrangements exist when returning to:

Wales

<https://gov.wales/exemptions-self-isolation-coronavirus-covid-19-html>

Northern Ireland

<https://www.nidirect.gov.uk/articles/coronavirus-covid-19-travel-advice>

Scotland

<https://www.gov.scot/publications/coronavirus-covid-19-public-health-checks-at-borders/pages/exemptions/>

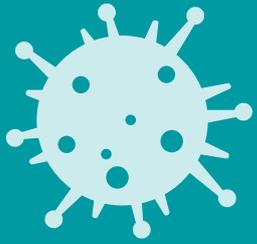
Travelling in the UK – leisure and work

As lockdown restrictions ease and more people return to work and social activities, journeys involving public transport, car sharing and private cars will become more commonplace again.

Arrangements are reviewed frequently as part of the Government's 'roadmap' (COVID-19 recovery strategy) and both easing and tightening steps will continue to be taken, as appropriate. This pattern is likely to continue for some time.

Walking and cycling are encouraged by the government as a helpful control measure, failing that, to use public transport or to drive.





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Emphasis is still on working from home where possible, with regular hand washing. Keeping distanced from others and avoiding rush-hour, are also recommended, when using public transport or driving.

No-one should travel if they are experiencing any coronavirus symptoms.

Are self-isolating because of their own symptoms or are sharing a household or support bubble with someone who has symptoms; Are clinically extremely vulnerable or have been advised by the NHS Test and Trace service to self-isolate.

For more information on when NOT to travel, see the Government guidance here: <https://www.gov.uk/guidance/coronavirus-covid-19-safer-travel-guidance-for-passengers>

Local lockdown areas

In parts of England that have shown increased local transmission of COVID-19, the Government has introduced measures to reduce the spread of the virus. This means, for England, new powers for local authorities to stop people gathering, close specific premises, shut outdoor spaces and cancel events. Localised 'stay at home' orders can also be issued.

The measures are triggered where there have been local clusters or outbreaks from a hospital or factory or school, for example.

Where lockdowns are in place, the measures may vary according to the situation locally.

Travel is one aspect which will be affected, as people will inevitably be asked to avoid travelling into or through a local lockdown area unless travel is essential. Those living within the local lockdown area are requested to stay at home as much as possible.

At the time of writing, no local lockdown measures have been put into place in Wales, Northern Ireland or Scotland.

Face coverings on public transport

Safer travel guidance for passengers has been introduced, which includes the legal requirement (from 15th June) for face coverings to be worn when using public transport. This includes taxis and private hire vehicles, buses and coaches, trains and trams, ferries, hovercraft and aircraft in England: <https://www.gov.uk/guidance/coronavirus-covid-19-safer-travel-guidance-for-passengers>

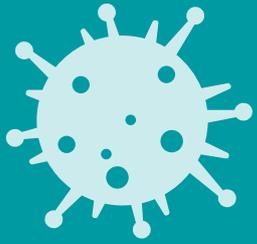
It includes tips on planning your trip, exemptions to the requirements (for young children, officials etc.) and a clear message about handwashing/sanitising at the end of the journey.

In Wales, requirements for wearing a face covering are the same as in England, other than in relation to the structure of the face covering itself, which should be made up of three layers, as set out by the World Health Organisation: <https://gov.wales/face-coverings-frequently-asked-questions>

In Northern Ireland, the type of face covering is not specified but the wearing of them is required for public transport – except on tour coaches and taxis/private hire vehicles. <https://www.nidirect.gov.uk/articles/coronavirus-covid-19-overview-and-advice#toc-4>

In Scotland, face coverings in shops and on public transport are required. The design of a face covering is not specified. <https://www.gov.scot/publications/coronavirus-covid-19-phase-3-staying-safe-and-protecting-others/pages/face-coverings/>





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Holiday providers and retailers - What does the law say?

Legislation exists that sets out the responsibilities of holiday providers and retailers with regard to customer contracts, cancellation and compensation. These measures are in place to protect consumers and provide a level playing field for businesses.

For more information on this, see our In Depth Guide on Package travel & holidays <https://www.businesscompanion.info/en/quick-guides/services/package-travel-and-holidays>

For travel, accommodation and events which do not constitute a 'package,' other legislation exists to protect the rights of consumers and in most cases will entitle them to a refund for cancelled events or accommodation. For more information see our In Depth Guide on the supply of services <https://www.businesscompanion.info/en/quick-guides/services/the-supply-of-services>

These unprecedented times have so far shown that pragmatism, communication and trust have important roles to play when the strict application of legislation may not be appropriate.



What should I be doing for my customers and the holidays they've booked?

With the above in mind, advice from trading standards for the travel sector is to:

Keep communicating with your customers about the steps you are taking now and those you intend to take in the future. Be as honest and as accurate as possible. If you don't have all the answers, say so.

Appeal to your customers for patience while you do everything you can to resolve their concerns – most people understand that businesses are facing huge pressures on services and finances and that they might have to wait a little longer.

Deal with the most imminent travel plans first because the situation changes daily. Let your customers know that this is what you are doing, and why.

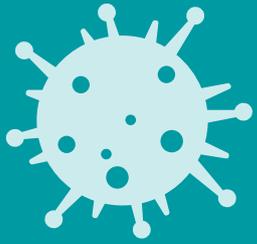
Advise customers to check their travel insurance cover, in case they need to access it.

Keep in contact with reliable sources of information, such as via your trade association or Primary Authority partner (if you have one) <https://www.gov.uk/guidance/local-regulation-primary-authority>.

The ABTA website provides freely accessible guidance for industry and consumers on refunds, with more detailed support accessible by members only <https://www.abta.com/news/abta-provides-further-industry-and-customer-guidance-refunds>

<https://www.abta.com/news/coronavirus-outbreak>





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Package Holidays (inc. cruises)

Keep a close eye on the Government's advice and contact customers to advise that travel plans have been cancelled, prioritising those with the most imminent travel plans.

The Package Travel and Linked Travel Arrangements Regulations 2018 ('PTRs') still apply. A full refund or re-booking (if the provider is ABTA or ATOL protected) should therefore be offered. Following a July 2020 announcement by the Government, a refund credit note is another alternative.

Refund credit notes

On 18th July 2020 the Government announced enhanced protections for passengers by backing the ATOL protection scheme. This means that passengers who choose refund credit notes are covered for cancellations as a result of COVID-19, even if the travel provider later collapses.

The changes also mean for those with ATOL-protected holidays that have already been cancelled, these customers can choose between a refund or a fully-protected refund credit note for use at a later date.

This applies to package holidays that include a flight. The Government protections apply to refund credit notes issued between 10th March 2020 and 30th September 2020. If a customer chooses a credit note, they are still able to cash it in for a refund at any point up to 30th September 2021 instead.

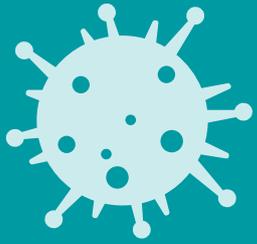
Advice from the Competition and Markets Authority (CMA)

CMA advice is that a credit note, re-booking or re-scheduling may be offered as an alternative to a refund, but a refund should still be an option that is just as clearly and easily available. Any restrictions that apply to credits, rebooking or re-scheduling, such as the period in which credits must be used or services re-booked, must also be fair and made clear to consumers.

If refunds are taking longer due to the high number being processed, let your customers know and try to complete the refund within a reasonable time.

The latest CMA advice is here: <https://www.gov.uk/government/publications/cma-to-investigate-concerns-about-cancellation-policies-during-the-coronavirus-covid-19-pandemic>





What if a customer doesn't want to travel once restrictions are lifted?

If the government declares it is safe to travel, but a customer no longer wishes to go, there is no obligation for you to offer a refund and normal cancellation charges may apply, according to your terms and conditions.

It is quite likely that the extraordinary circumstances of the time may see the introduction of new and more empathetic cancellation outcomes by responsible businesses operating in the sector. Equally, customers who have lost out may be more discerning about cancellation terms and conditions when booking future trips.

Events and UK accommodation

Similarly, for other UK travel, accommodation and events, the above advice applies and communication with consumers is key.

For events which have been cancelled due to the restrictions on social gatherings, consumers should be offered a refund or a credit note if acceptable.

If the event is to be re-scheduled, the consumer's booking will stand for the re-arranged date, however, if the consumer cannot make that date they should be offered a refund.

Flights

For flight cancellations the Civil Aviation Authority (CAA) website gives guidance on EU Regulation EC261 which applies to cancellations, namely the option of a full refund or alternative flights. However, alternative flights are not possible to arrange at the current time. <https://www.caa.co.uk/COVID-19/>

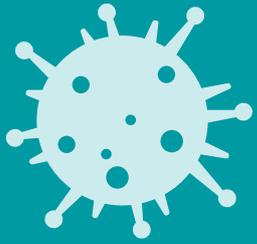
Compensation for flight cancellations made within 14 days of the departure date would normally be paid to consumers under EC261. However, the current C-19 crisis may be deemed 'extraordinary circumstances' and therefore this may not apply where the Government has advised against travel.

Travel insurance

Some travel insurance policies bought before 1 March 2020 did not have coronavirus as an exclusion, which is good news for those affected. Financial Conduct Authority advice on travel insurance is here:

<https://www.fca.org.uk/consumers/insurance-and-coronavirus>





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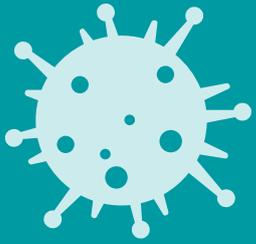
A final note

Legally, there is a difference between a 'refund credit note' and a voucher – see [ABTA's website](#) for more information.

Remember that you should not seek payment for a service you know you'll be unable to provide. But where there's a reasonable expectation that travel plans will happen, then customers should continue to make payments towards it.

The travel industry continues to lobby government for financial support and changes to legislation that it believes are needed to sustain the sector for the future.





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Further information

Civil advice regarding refunds

<https://www.citizensadvice.org.uk/consumer/holiday-cancellations-and-compensation/claim-compensation-for-a-holiday/>

Financial Ombudsman Service

<https://www.financial-ombudsman.org.uk/consumers/how-to-complain>

CMA Coronavirus (C-19)

<https://www.gov.uk/government/collections/cma-covid-19-response>

Simon Calder travel Q&A

<https://www.independent.co.uk/travel/news-and-advice/coronavirus-simon-calder-travel-questions-answered-live-a9409711.html>

ABTA guidance on refunds

<https://www.abta.com/news/abta-provides-further-industry-and-customer-guidance-refunds>

