My flight to Ukraine has been cancelled. What is the legal position?

In the scheme of things having a flight to the Ukraine cancelled fades into insignificance compared to the hardships currently being endured by the residents of that country at the hands of President Putin but nevertheless it is an issue that many airlines and passengers will have to resolve.

The starting point is EC Regulation 261/2004 on denied boarding, cancellations and long delays which, despite Brexit, is still part of UK law with only minor amendments.

This provides that in the event of a flight being cancelled within 14 days of departure a passenger is entitled to a standardised amount of compensation on a sliding scale according to the distance to be travelled on the flight. In the case of a flight from day London to Kyiv, a distance of approximately 2,400 kms, this would be £350 for each passenger. No compensation is payable under the Regulation if the cancellation is made more than 14 days before departure.

However no compensation is payable if the airline can establish that the cancellation is due to 'extraordinary circumstances' – for which war between Russia and Ukraine would certainly qualify.

In these circumstances other provisions of the Regulation would come into play. The passenger is entitled to be re-routed, an option which would no longer be available, or a full reimbursement of the cost of the flight within seven days.

An alternative to claiming under the Regulation would be to argue that the contract for the flight had been 'frustrated' i.e. it had become impossible to perform because of the outbreak of war but there is little advantage and some disadvantage to going down this route because under the Law Reform (Frustrated Contracts) Act 1943 there is a possibility that the airline could make a deduction from the price of the flight for any expenses they have incurred if it 'just' to do so. Ultimately this would be at the discretion of a court but it is not really an avenue worth exploring.