

How do I pursue my rights against a travel company?

If you have complained to your travel company and not achieved a satisfactory outcome there are a number of avenues to explore. You have a number of choices:

- Organisations that will help you complain
- Credit card claims and charge backs and the Financial Ombudsman Service (FOS)
- Alternative Dispute Resolution (ADR) organisations. ADR is an alternative to going to court
- Going to court

Organisations that will help you complain

- The Association of British Travel Agents
- The Civil Aviation Authority
- Citizens Advice
- The Travel Network Group
- Resolver
- Which? Travel
- Insurance Policies
- European Consumer Centre

Credit card claims and charge backs

- Section 75 of the Consumer Credit Act 1974
- Chargebacks

Alternative Dispute Resolution (ADR) organisations

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Organisations that will help you complain

ABTA

If you have a complaint against a tour operator or travel agent you may be able to use the ABTA complaints procedure. ABTA is the Association of British Travel Agents. They are a trade association which represents a large proportion of UK tour operators and travel agents including many of the largest: TUI, Jet2, On the Beach, Virgin Holidays, Carnival, Kuoni. You can find out if your travel company is a member by clicking [here](#).

ABTA have a [two stage complaints process](#). At Stage One you can submit your complaint to ABTA and they will review it. They can provide you with advice on your claim and they may also contact your travel company and ask them to review the case and the company may then offer you redress.

If this does not work you can then move on to Stage Two which is an ADR process and is dealt with below.

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The Civil Aviation Authority

The Civil Aviation Authority (CAA) is the airline regulator in the UK. It has a Passenger Advice and Complaints Team (PACT) which may be able to help you. However it only deals with complaints against airlines which are not members of ADR schemes. You can find out which airlines are members by clicking [here](#).

If your claim is against an airline that is not part of an ADR scheme then PACT will advise on whether they think you have a valid complaint, and if so they take it up with the business concerned, but they do not have the legal powers to impose a solution on an airline.

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Citizens Advice

Citizens Advice provide [information](#) on their website about holiday problems and how to complain. They offer an online form for complaints and they will offer advice based on what you submit. You can also call their helpline (0808 223 1133) or you can go into one of their offices to get advice from one of their advisors. However an adviser cannot make a complaint for you or take legal action on your behalf

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The Travel Network Group

The Travel Network Group is a consortium of about 900 independent travel companies. If you book through one of their members there is a [complaint procedure](#) and the possibility of going to arbitration if your problem is not resolved.

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Resolver

Resolver is a free online complaints service that will look at your complaint, help you draft a letter, send it, monitor the response and, if necessary, submit your complaint to an ombudsman or regulator. You can use it to complain about over 30,000 companies.

On its website it has an extensive section on consumer rights, including your rights against airlines and holiday companies.

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Which? Travel

If you subscribe to the Consumers' Association magazine, 'Which? Travel', you will get free travel advice by calling their Legal Helpline 0117 456 6020.

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Insurance Policies

If you have a travel insurance policy or a home insurance policy it is worth checking to see if it includes legal expenses. It might cover the cost of going to court as well as offering advice.

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European Consumer Centre

If you have a complaint against a travel company in another European country you might want to contact the ECC in the UK who will then take up your complaint via an ECC in the country where your travel company is based. The UK ECC is part of a network of ECCs throughout the EU and Iceland and Norway. They have no enforcement powers but they claim that their advice leads to a resolution in the majority of cases they handle.

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Credit card claims and charge backs

Section 75 of the Consumer Credit Act 1974

Under the Consumer Credit Act 1974 if you have a claim against your travel company you also have a 'like claim' against your credit card company – although you won't be able to get compensation from both of them.

To make a claim under s.75 against your credit card company you have to show:

- You bought a travel service for more than £100 and less than £30,000
- The travel company committed a breach of contract or misrepresented the service
- You bought the service on a credit card but not a debit card
- You bought the service directly from the travel company. If you paid a travel agent for the travel service the law is not clear whether you have a claim against the travel company.
- You bring the claim within six years if the travel company is based in the UK. For foreign companies this period may be considerably shorter so it is wise to bring the claim as soon as possible.

If you contact your credit card company they may tell you to contact the travel company, or your insurance company first but this is not necessary you can go straight to your credit card company if you wish. If you are dealing with an overseas company this may be the best option.

However to succeed in a claim against the credit card company you will have to prove that you have a case against the travel company. So you will need all the evidence such as the paperwork and photos and receipts that you would have used against the travel company.

Your credit card company may try and say that all you are entitled to is a refund but that is not the case. If for instance your travel company has cancelled your holiday or your flight for no good reason and you have had to buy more expensive substitutes you will be entitled to the price of the substitutes so long as that was a reasonable response. These are called consequential losses and you are entitled to them for any breach of contract if you suffer them. This would extend to serious personal injury or illness but for that you should take expert legal advice.

If your credit card company proves difficult you can contact the Financial Ombudsman Service for help. See below.

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Debit and Credit Card Chargebacks

If you have bought the travel service on your debit card or credit card and are not protected by s.75, e.g. because you have paid less than £100 for the service then you may be able to get a refund of what you paid. This is called a chargeback. It is a voluntary scheme run by Mastercard, Visa and American Express.

- You only get a refund for what you paid on the card, no consequential losses
- You must apply within 120 days. However this can be extended to up to 540 days for future services like holidays and flights. The 120 day limit begins to run from the date of departure.
- It also applies to pre-paid cards
- You must first have tried to get your money back from the travel company – unless it has gone bust.
- The travel company may dispute your claim and you may not get your money back if it can prove the claims was unjustified. If this happens and your card company has already given you a charge back it may be reversed by a claw back.
- There are no limits to what you may claim like there is with s.75 except for Mastercard which imposes a £10 minimum
- It does not cover cash withdrawals. So if you withdrew cash to pay for your flights you will not be protected.
- If your card company does not cooperate you can complain to the Financial Ombudsman Service. See below.

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Alternative Dispute Resolution (ADR) organisations

What is ADR?

ADR stands for Alternative Dispute Resolution. There are a number of ADR schemes which provide a way of resolving complaints without having to go to court. The rationale is that they are a cheap (or free), quick and informal alternative to court.

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ABTA

As well as offering advice, as discussed above, ABTA offer two ADR schemes: Conciliation and Arbitration. The principal difference between the two is that at the end of the process conciliation is not binding upon you, unless you have agreed, but the arbitration decision is. Both schemes are only available against companies that are members of ABTA.

Conciliation

- The process is free to you. The ABTA member pays the fee.
- The process only applies to disputes which involve personal injury or illness which have become deadlocked
- It does not apply to claims for more than £10,000.
- You have 18 months from returning home to apply for conciliation
- Both you and the travel company have to agree to conciliation
- The process is confidential. Nothing you say in the conciliation can be used in subsequent court proceedings
- The process is conducted either by phone or in writing by a conciliator
- The conciliator will advise you of the the time frame and things to consider.
- The conciliator may propose a solution
- If settlement is reached it will be recorded
- There is a short cooling off period where you can take advice before signing the agreement.
- It is binding once the settlement is signed by both parties.

Click [here](#) for the ABTA conciliation rules

Arbitration

- You can apply for arbitration if your claim is for less than £25,000 but a maximum of £5,000 per person on a booking.
- You must have reached deadlock with the ABTA member before you can apply for arbitration
- You must apply for arbitration within 18 months of the date of completing your return journey
- Claims for personal injury cannot be more than £1,500 per person and cannot be for the majority of the claim.
- After considering the evidence the arbitrator will make a legally binding award.
- Payment of the award is due within 21 days from the date it is issued.
- You can appeal the award within 14 days.
- Fees are payable but if you win your case you will pay nothing
- A win is where you are awarded an amount higher than previously being offered.
- A loss is where you are awarded an amount equal or less than previously offered.
- If you lose, you will be directed to pay the company an amount equivalent to your registration fee. For example, if your claim is less than £7,500 and you lose, your maximum outlay will be £216.

Table of Fees

Claim Amount	Fee
£1 - £7,500	£108
£7,501 - £25,00	£135

Click [here](#) for the ABTA arbitration rules:

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Financial Ombudsman Service

The Financial Ombudsman Service, as its name suggests, is an organisation set up to resolve disputes between consumers and financial institutions. It will not intervene between you and your travel company directly but it will help if you have paid for a travel service with a credit card or a debit card and you have a claim against the card company under s.75 or you want a chargeback.

- It is free of charge to consumers
- You must first try and resolve the problem with the card company
- If you cannot resolve the problem you should ask the card company to give you a 'deadlock' letter. Then you can approach the FOS.
- You have six months from the deadlock letter to bring your complaint to the FOS.
- They will investigate and inform you if they think you have a case
- If you do have a case the Ombudsman can make a binding decision and order the card company to pay compensation.
- The decision is binding on the card company but not on you. If you don't like the decision you can still go to court.
- The upper limit for claims to the FOS is £355,000 so your claim should be covered!

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CEDR

CEDR is the Centre for Effective Dispute Resolution. It has a number of schemes covering the travel industry. If you have a complaint about a flight or a package holiday or a coach holiday one of their schemes may cover you. The schemes all have slightly different rules. The full rules for each of the schemes can be found on the CEDR website. You can also find out if the travel company you have a dispute with is covered by these schemes by going to the CEDR website.

Flights

The CEDR scheme for flights is approved by the Civil Aviation Authority (CAA). To find out if the airline against which you have a complaint is covered by CEDR you can go to the [CAA website](#) and check.

- The scheme covers
 - Flights originating or having their final destination in the UK
 - Denied boarding
 - Cancellation
 - Delay
 - Loss, damage or delay to baggage
 - Claims where the airline has not acted fairly
- The scheme does not cover
 - Personal injury
 - Claims for more than £10,000 per booking
- You must complain to the airline first
- If they provide a final response that you are unhappy with, or if they do not respond within eight weeks' you can then take your complaint to CEDR
- You have 12 months after reaching deadlock with the airline to complain via CEDR
- The most you will have to pay for using the scheme is £25 and even then that is only when your complaint is completely unsuccessful
- The decision of the adjudicator is binding on the airline but not on you. You can reject the decision and pursue your claim through the courts if you want.
- The maximum time to reach a decision is 90 days

Package Holidays

- The process is confidential
- You must have tried to resolve your dispute with your travel company before asking for arbitration
- You must ask for arbitration within 12 months of failing to reach agreement with your travel company
- Both you and the travel company must agree to arbitration

- The limit for making a claim is £25,000
- The scheme does not cover personal injury
- A small registration fee is payable – less than the cost of going to court
- The arbitration is conducted in writing; there are no oral hearings
- The decision of the arbitrator is binding on both parties but you settle the matter with your travel company before a decision is taken

Coach Holidays

CEDR provides an arbitration scheme for members of the Bonded Coach Holidays organisation. You can check for members [here](#).

The scheme is very similar to the Package Holiday scheme

- The process is confidential
- You must have tried to resolve your dispute with your travel company before asking for arbitration
- You must ask for arbitration within 12 months of failing to reach agreement with your travel company
- If you apply for arbitration the coach company is obliged to participate
- The limit for making a claim is £1,500 per person or £7,500 per booking form
- The scheme does not cover personal injury
- A registration fee of £100 plus VAT is payable.
- If you win the arbitrator may require the company to reimburse your fee but if the arbitrator decides that your conduct has been unreasonable you can be ordered to pay the company's fee.
- The arbitration is conducted in writing; there are no oral hearings
- The decision of the arbitrator is binding on both parties but you may settle the matter with your travel company before a decision is taken

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Aviation ADR

Aviation ADR is another ADR body accredited by the CAA. You can find the airlines covered by their scheme on their [website](#) or the website of the [CAA](#).

The rules of the scheme can be found [here](#).

- The scheme covers
 - Flights originating or having their final destination in the UK
 - Denied boarding
 - Cancellation
 - Delay
 - Loss, damage or delay to baggage
 - Claims where the airline has not acted fairly
- The process is confidential
- You must have tried to resolve your dispute with your airline before asking for arbitration
- You must ask for arbitration within 12 months of failing to reach agreement with the airline
- No fee is payable by passengers
- The limit for making a claim is £25,000
- Personal injury does not fall within the scope of the scheme
- The arbitration is conducted in writing but the rules suggest that you can have an oral hearing if both you and the airline agree.
- You may withdraw from the process at any time but airlines cannot
- The decision of the arbitrator is not binding on you but it is binding on the airline so if you don't like the decision you can still go to court.

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Going to Court

The first thing to say about taking your claim to court is that it is a long, complicated and technical affair which is not particularly cheap if you lose, and is not for the faint hearted and should be regarded as a last resort. But if you want your day in court it can be very satisfying when you win!

The technical rules for the Small Claims Track can be found [here](#) and further guidance is available [here](#). These are the Civil Procedure Rules and are not the easiest of documents for a lay person to navigate. For easier to read guides you might be better off going to the [MoneySavingExpert](#) site or [Citizens Advice](#)

One advantage of the Small Claims Track is that win, lose or draw you do not have to pay the legal costs of the other party unless your claim was frivolous or vexatious.

What is described below is how you take a claim to the Small Claims Track, popularly known as the Small Claims Court.

Getting to Court

- You should start by writing a letter before claim setting out precisely what you want from the travel company and setting a deadline for a reply. You can bring a claim for up to £10,000 but only £1,000 if it is for personal injury.
- You start by going to the Court Service website where you have a choice: you can make a claim online or you can download Form N1 and fill it in manually.
- Whatever you choose make sure you fill the form in diligently because it is difficult to change it later.
- Make sure that you also claim interest. This could be quite a substantial amount if there is a long delay before the case is heard.
- You will have to pay a fee on a sliding scale. [This](#) is the latest scale.
- You pay slightly more for making a paper claim than an online claim
- The court will send you an allocation questionnaire in which you will be asked whether you want to settle the matter by mediation; which court you would like the hearing to be in; whether you need an expert witness; and what dates you will not be available.
- Mediation is voluntary and will be by telephone, usually for a one hour slot. The mediator is not an expert in travel law and the mediation could be quite superficial e.g. the mediator will simply try and see if you can compromise on a figure in the middle.
- The mediation is confidential.
- If you settle the case by mediation you will not get your court fee back so take that into account when trying to settle

- The court will send you details of the date and time of your case and if the case goes to court you will also have to pay a hearing fee on a sliding scale.
- If the defendant travel company does not reply then you will win by default.
- Before you go to court you should ensure that the defendant travel company is given all the evidence that you will be relying upon – the holiday brochure, invoices, receipts, photographs etc.
- You should also prepare your Witness Statement. Basic guidance on Witness Statements is given here in the Civil Procedure Rules. Essentially you should set out as clearly and lucidly as possible what went wrong and why you want compensation. You should send the Witness Statement to the court and the defendant along with all the other evidence you are relying upon.

The Court Hearing

- Make sure you arrive in good time. You will have to go through security and check in with the court clerk.
- In order to save the court's time, but not yours, several small claims may be allocated the same time slot. This is because many cases are settled at the last moment and it is not considered efficient to have the judge sitting around twiddling his fingers with no cases to hear. As a consequence you may find yourself sitting around waiting most of the day for a hearing and it is not unknown for cases to be adjourned to another date if there are too many cases to hear.
- The hearing itself is relatively informal and private. It will be held in the District Judge's room. There will be no jury and you will not be asked to swear an oath.
- You may be very anxious but try and remain calm and do not get angry
- The hearing will be recorded
- If you have provided a Witness Statement you will not be required to give that evidence again although the judge may ask you to very briefly summarise it.
- You can be cross-examined on your evidence
- The judge may also ask you questions
- The judge will give his/her decision at the end of the hearing and they must give reasons for the decision.

- If you win you will be awarded the compensation the judge orders, your court fees, any interest you have claimed, your travel expenses and some loss of earnings, if any.
- If you have employed a solicitor to bring your case you will not be awarded their costs
- If you lose you will only have to pay travel and accommodation costs, if any, of the defendant unless the court decides that your case has been frivolous in which case you may be ordered to pay the defendant's legal costs.

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ADR v Court

If you have complained to your travel company and not been successful but you don't want to give up then you may have a choice between taking them to court or using an ADR scheme. Here are some of the factors that might help you to decide.

- ADR is usually cheaper than court although if win you will get your fees back whichever method you choose
- ADR is designed to be quicker and less formal than court and will decide cases on what is fair and reasonable
- ADR is paper based whereas court involves a personal appearance
- If you are not accomplished at writing up a case you may be better off going to court
- It may be easier to create an impact by a personal appearance
- Appearing in court may be very stressful
- You might want your day in court and confront the travel company in person
- For relatively low sums choosing to go to court might make it uneconomic for a travel company to defend the case if they have to send someone to the other end of the country for a day
- ADR is confidential – although there are usually no members of the public observing your case in the District Judge's room
- The limit to what you can claim might determine whether you use ADR or go to court.

Further reading

['Holiday Law' by David Grant, Stephen Mason and Simon Bunce](#)

Saggerson on Travel Law and Litigation by Matthew Chapman, Sarah Prager and Jack Harding

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