

Abandon Ship

It has just been reported that the luxury cruise ship, Seadream, has had to return to port early because several passengers have tested positive with COVID 19.

This is sad for all concerned, the passengers, the crew, the cruise line and the travel industry. The question arises however as to what is the legal position of the passengers whose voyage was curtailed.

For UK passengers the Package Travel Regulations will apply, in particular Regulation 15 which deals with responsibility for the performance of the package. This provides that if there is any “lack of conformity” with a package holiday contract then the organiser, in this case the Seadream Yacht Club, must put it right unless it is impossible to do so. Assuming this is so, the Regulation goes on to provide that the organiser must offer “suitable alternative arrangements”. Assuming this too is impossible Regulation 16 comes into play.

At first glance this appears to offer some solace to the passengers. It provides that the organiser “... must offer the traveller an appropriate price reduction for any period during which there is a lack of conformity ...”. This would seem to mean that passengers would get a pro rata refund for the period of the cruise that they lost.

Ironically, there might be a sting in the tail for those passengers who had tested positive with COVID and thereby caused the ship to return to Barbados. Regulation 16 provides that no price reduction applies to where the lack of conformity “is attributable to the traveller”. Strictly speaking, even though it was not their fault, the reason that the ship returned to port was *caused* by these passengers.

Regulation 16 goes on to deal with when compensation might be available. However no compensation is payable for lack of conformity if this is due “to unavoidable and extraordinary circumstances”. COVID 19 will almost certainly fall into this category.

There is one further provision of Regulation 15 that might just have relevance. Where a package has been terminated early there is a requirement for the organiser to return the traveller to the point of departure. Given that Seadream commenced its voyage in Barbados

and the curtailed voyage ended there this provision would not be triggered in most cases. However if the cruise had been packaged together with a flight, either by the organiser or perhaps by a travel agent, this provision would then come into play. If an immediate return cannot be organised the traveller is entitled to up to three nights accommodation of equivalent category if possible.