

# CAA review into airline refund practices during the Covid-19 pandemic

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## Summary

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The last few months have had a huge impact on aviation and on passengers who have been unable to take their flights and holidays as planned. Border closures and lockdowns meant that more and more flights had to be cancelled, leading to increasing numbers of passengers seeking a refund from their airline. Early on in the pandemic we published guidance<sup>1</sup> for airlines setting out their obligations to offer the choice of a cash refund under Regulation EC261/2004<sup>2</sup>. We also began monitoring how well airlines were dealing with refunds and we began a compliance review in May.

As a result of our review we have achieved a number of important improvements for passengers. There were a number of airlines who were not providing cash refunds and were only offering the choice of a voucher or rebooking. Following discussions with us those airlines have agreed to change their practices and we are pleased to confirm that they are all now offering the choice of a cash refund. We have also ensured that a number of airlines have improved the way in which they inform passengers of a cancellation, providing clearer information about their options and better signposting on how to request a refund. The majority of airlines now provide an on-line method of requesting a refund. Of the small number that still require passengers to telephone their call centre we have required them to focus on reducing call waiting times and making it as easy as possible to request a refund.

The biggest problem that we found was the time that it was taking for airlines to process refunds. We found that only 3 airlines (American Airlines, Jet2 and United Airlines) were providing refunds promptly and did not have significant backlogs. A number of major airlines had significant waiting times for making refunds and as a result of our work they

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<sup>1</sup> <https://www.caa.co.uk/Commercial-industry/Airlines/Guidance-on-consumer-law-for-airlines/>

<sup>2</sup> EC261/2004 of the European Parliament and of the council of 11 February 2004 establishing common rules on compensation and assistance to air passengers in the event of denied boarding and of cancellation or long delay of flights

have implemented plans to significantly reduce the waiting time and to continue delivering improvements in the next few months. Full details of the steps taken by each airline are set out below.

## Introduction

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The Covid-19 pandemic has been unprecedented and has particularly badly hit airlines, with many having to ground their fleets for several months and cancel huge numbers of flights. During the pandemic flights were down by 95%<sup>3</sup> and passenger numbers were down by 99%<sup>4</sup>. We recognise the particular challenges that airlines faced initially due to availability of staff, staff illness and a fundamental change in working practices due to lockdown and social distancing requirements. This contributed to a significant backlog of refunds to process, and extended time periods to process the refund. However, as the pandemic progressed we expected airlines to adapt to the new circumstances and we looked for them to implement new processes to ensure consumers received their refunds. We recognise, though, that in practice it has been challenging for many airlines to bring refund processing times down close to the requirements in the regulation.

As the Covid-19 pandemic started to have a significant effect on flights operating from the UK the CAA published guidance for airlines on the application of Regulation EC261/2004 to cancelled flights. The guidance confirmed that when an airline cancels a flight it must offer passengers the choice of a refund, re-routing at the earliest opportunity or re-routing at a later date (subject to availability). We also noted that given the difficult operating circumstances, there may be significant practical difficulties in providing alternative flights and that a refund may therefore be the only practical option available for passengers. In addition to these options, we also set out our view that it was open to airlines to offer passengers the choice of a voucher to fly at a later date, as long as a cash refund was offered at the same time. The European Commission subsequently issued guidance<sup>5</sup> on the Regulation which re-iterated the options to be offered to passengers. We updated our own guidance to include a link to the Commission guidance.

## Background to our review

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Following the issue of our guidance we monitored how the industry was dealing with the significant volume of flight cancellations. This included reviewing airline websites, direct contacts from passengers, reports from consumer groups such as Which? and the

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<sup>3</sup> For flights in April and May 2020 compared to 2019 - Source CAA UK Airport Statistics

<sup>4</sup> For passenger carryings in April and May 2020 compared to 2019 - Source CAA UK Airport Statistics

<sup>5</sup> <https://ec.europa.eu/transport/sites/transport/files/legislation/c20201830.pdf>

Consumer Council for Northern Ireland and media reporting. We also received data on the number of complaints about airline refunds received by the CMA through its website reporting tool allowing consumers to report unfair behaviour.

As a result of our monitoring, we identified the following main issues:

- some airlines were not providing cash refunds and were only offering the option to rebook or to accept a voucher;
- some airlines were not being clear to passengers what their rights were;
- some airlines were making it unduly difficult for passengers to contact them to notify them of their request for a refund.

As things progressed and huge numbers of flights were being cancelled the most significant problem became the issue of airlines not paying refunds quickly enough. Passengers faced long waits to obtain a refund and had no certainty about how long it would take to get their money back. Regulation EC261/2004 requires refunds to be made within 7 days, however, given the sheer scale of flights being cancelled this was very difficult to achieve for many airlines. Our view has been that airlines should make refunds promptly and over time work towards getting as close to the 7 days as possible.

We launched our review of airline practices in May. We focused on 18 airlines, including all the UK airlines (British Airways, Eastern, easyJet, Jet2, Loganair, TUI and Virgin Atlantic). We also included a number of non-EU airlines which had large operations from the UK or where we had concerns there were significant problems such as long waits for a refund or a failure to provide refunds (Air Canada, Air Transat, American Airlines, Emirates, Etihad, Malaysia Airlines, Turkish Airlines, United Airlines and Westjet). We also included 2 EU airlines (Aer Lingus and Ryanair) in our review, this was due to the size of their operations from the UK and the important connectivity Aer Lingus provides between the UK and Northern Ireland.

We took the decision not to include other EU airlines in our review due to the range of different positions being taken by National Enforcement Bodies (NEB) across the EU. A number of EU governments called<sup>6</sup> on the European Commission to suspend the rules requiring airlines to provide a cash refund and to allow automatic provision of a voucher. Engaging with these other EU airlines at that point would potentially have cut across the discussions that their own governments and NEBs were having with them.

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<sup>6</sup> <https://services.euronews.com/2020/04/29/a-dozen-eu-states-will-today-call-on-brussels-to-suspend-law-granting-refunds-for-cancelle>

## Enforcement powers

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As set out in our Guidance on Consumer Enforcement<sup>7</sup> our approach is to work informally and bilaterally with airlines to resolve any compliance issues. In our experience this approach generally works well and often leads to a swifter outcome than taking formal enforcement action. It also ensures that we take a proportionate approach and provides the opportunity for businesses to take action to comply. Where it is not possible to resolve compliance issues informally we will consider taking enforcement action based on our published prioritisation principles<sup>8</sup>. Our enforcement powers come from Part 8 of the Enterprise Act 2002 (Part 8 EA02) and enable us to seek information from a business, to seek an undertaking from a business or to seek an Enforcement Order from the Court to stop an infringement. We do not have powers to impose a financial penalty on a business or to require them to stop an infringement.

We have used our powers extensively<sup>9</sup> in the past to tackle price transparency issues, provision of information on passenger rights, compensation for connecting flights and have an on-going case regarding Ryanair crew strikes<sup>10</sup>. However, our enforcement powers are not well suited to swift action and it can take a considerable period of time for a case to come before the courts. This leads to a period of time when businesses are able to continue breaching the law without sanction. We have called on the Government for improved powers to ensure that we have a more flexible enforcement toolkit that allows us to deal more effectively with a wide range of compliance issues. The Competition and Markets Authority<sup>11</sup> has also called for better consumer law enforcement powers, which we fully support and urge the Government to move swiftly in delivering these changes.

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<sup>7</sup> [www.caa.co.uk/cap1018](http://www.caa.co.uk/cap1018)

<sup>8</sup> [www.caa.co.uk/cap1233](http://www.caa.co.uk/cap1233)

<sup>9</sup> <https://www.caa.co.uk/Our-work/About-us/Enforcement-and-prosecutions/>

<sup>10</sup> <https://www.caa.co.uk/News/UK-Civil-Aviation-Authority-begins-enforcement-action-against-Ryanair/>

<sup>11</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/781151/Letter from Andrew Tyrie to the Secretary of State BEIS.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/781151/Letter_from_Andrew_Tyrie_to_the_Secretary_of_State_BEIS.pdf)

## Review findings

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Our review found that there were a number of airlines that had not been offering cash refunds to passengers and had only offered the choice of a voucher or to rebook a flight at a later date. Those airlines have now changed their practice and have agreed to offer passengers cash refunds. We also identified a number of issues regarding transparency where airlines did not provide clear information about the option of a cash refund or provide information about how to request a refund. Those airlines have made changes to their cancellation notifications and websites to ensure that the process is now much clearer and more straightforward for passengers. We also found that some airlines required passengers to telephone the call centre to request a refund, and we have encouraged airlines to ensure that there are on-line tools to request refunds. However, where the call centre is the only option we have required airlines to ensure that passengers do not face long waits to speak to an agent.

The biggest problem we found was that a number of airlines had large backlogs of refund claims and very long waiting times to process a refund. We have required those airlines to provide commitments to clear the backlog and to reduce the waiting time for processing refunds. We have also required them to provide regular updates on progress.

We have set out below our findings relating to the individual airlines that were included in our review.

**Aer Lingus** – Through our review we have identified that, although Aer Lingus has had a sizeable backlog of refund requests to process, the airline has been processing these requests relatively quickly, with refund processing timescales being between around 30 to 40 days. The airline has committed to further reduce refund processing times and to address the remaining backlog through the introduction of further automation in its refund process, which it intends to implement from August. The CAA will continue to monitor the performance of the airline in processing refunds and has communicated its expectations to Aer Lingus that processing times should be further reduced.

**Air Canada** – Air Canada is one of the airlines that, based on passenger complaints, the CAA had identified as not paying cash refunds. In its response to the enquiries that we have made as part of our review, the airline has confirmed that it is paying cash refunds as required. The airline has confirmed to the CAA that it is contacting passengers on cancelled flights to inform them of the option for a cash refund. The CAA will continue to monitor the performance of the airline to ensure that it is not systematically denying passengers on cancelled flights their right to a refund.

**Air Transat** – Air Transat is one of the airlines that, based on passenger complaints, the CAA had identified as not paying cash refunds. In its response to the enquiries that we

have made as part of our review, the airline has confirmed that it is paying cash refunds as required. The airline has confirmed to the CAA that it is contacting passengers on cancelled flights inform them of the option for a cash refund. The CAA will continue to monitor the performance of the airline to ensure that it is not systematically denying passengers on cancelled flights their right to a refund.

**American Airlines** – American Airlines is one of only three airlines that our review has identified as having been consistently processing cash refunds quickly and as having only a small backlog of refund requests.

**British Airways** – The information reported to us by British Airways indicates that the airline has had a relatively small backlog of refund requests and that it has processed refunds relatively quickly, with refund processing timescales being around 30 days or less. However, passenger complaints indicate that the airline’s customers have experienced difficulties in contacting the airline to notify it of their request for a refund. In its own sample calls to the airline, the CAA has also been unable to speak to an agent to discuss refunds, with its calls terminated following a recorded message. British Airways has now made some changes to its customer helpline to ensure that calls are no longer terminated after a recorded message. We will continue to monitor whether this change provides improvements for passengers and how long it takes for passengers to get through to an agent.

**Eastern Airways** – Due to the nature of the booking profile of Eastern Airways’ customers, relatively few passengers were affected by the airline’s cancellations as compared to the other airlines in the review. As such, the airline has had a relatively small backlog and has been processing refunds relatively quickly, typically within 30 days of the passenger requesting a refund. The airline’s website is also clear that passengers on cancelled flights are entitled to a refund and how to claim it. However, the CAA’s review found that, due to an issue with its systems, Eastern Airways had not been notifying passengers on cancelled flights directly of their right to a refund. This issue was dealt with by the airline in early June and passengers on cancelled flights are now receiving communication from the airline directing them to its website for requesting a cash refund.

**easyJet** – easyJet is one of the airlines that our review identified as not processing refund requests sufficiently quickly and as having a sizeable backlog of refund requests. In relation to refund processing timescales, at least initially the airline was taking up to 90 days to process refund requests. Although the airline was able to improve its performance throughout May and June, the CAA was not satisfied and requested that easyJet provide the CAA with commitments to reduce the time taken to process refunds, such that they are processed in a reasonable timeframe and one which is aimed at the 7 day period set out in Regulation EC261/2004. easyJet has now confirmed to us that, as a result of investing further in the number of staff available to process refund claims, and by

increasing the number of staff in its call centres and extending their opening hours, it is now able to process refund requests in less than 30 days from the request being made by the passenger. easyJet has confirmed also that it expects its current backlog to be processed by early August.

**Emirates** – Emirates is one of the airlines that our review identified as not processing refund requests sufficiently quickly and as having a sizeable backlog of refund requests. In relation to refund processing timescales, at least initially the airline was taking up to 90 days to process refund requests, although the airline was subsequently able to improve its performance to around 60 days. However, the CAA was not satisfied with this level of performance and requested that Emirates provide it with commitments to reduce the time taken to process refunds, such that they are processed in a reasonable timeframe and one which is aimed at the 7 day period set out in Regulation EC261/2004. Emirates has now confirmed to us that, as a result of investing further in the number of staff available to process refund claims, it is now able to process refund requests in, on average, 40 days or less from the request being made by the passenger, with passengers having to wait a maximum of 50 days. Emirates expects to reduce the timeframe to 30 days by September. It also confirmed that it has processed 100% of claims received in March and April and 95% of those received in May.

**Etihad** – Etihad is one of the airlines that, based on passenger complaints, the CAA had identified as not paying cash refunds. In its response to the enquiries that we have made as part of our review, the airline has confirmed that it is paying cash refunds as required. The airline has confirmed to the CAA that it is contacting passengers on cancelled flights to inform them of the option for a cash refund. It has also made some improvements to its cancellation notification to provide a direct link to the website where passengers can find information about refunds. It has also taken steps to improve the performance of its call centre.

**Jet2** – Jet2 is one of only three airlines that our review has identified as having been consistently processing cash refunds quickly and as having only a small backlog of refund requests.

**Loganair** – Loganair is one of the airlines that our review identified as not processing refund requests sufficiently quickly and as having a sizeable backlog of refund requests. In relation to refund processing timescales, at least initially the airline was taking up to 90 days to process refund requests, although the airline was working to improve its performance the majority of claims are still taking between 60-90 days. The CAA was not satisfied with this level of performance and requested that Loganair provide it with commitments to reduce the time taken to process refunds, such that they are processed in a reasonable timeframe and one which is aimed at the 7 day period set out in Regulation EC261/2004. Loganair noted that restrictions in Scotland have been more stringent than in England and have lasted for longer, impacting on its ability to get staff back into the office.

However, it has confirmed that it has taken further steps to improve processing times and has committed to progressively reducing its processing time to less than 30 days. It expects to process all eligible claims made in April by 4 August, all claims made in May by 24 August, all claims made in June by 31 August and all claims made in July by 6 September. It is writing periodically to all passengers who have made claims to inform them of their expected processing timescales.

**Malaysia Airlines** – Malaysia Airlines is one of the airlines that, based on passenger complaints, the CAA had identified as not paying cash refunds. In its response to the enquiries that we have made as part of our review, the airline has confirmed that it is paying cash refunds as required. At the request of the CAA, the airline has also taken a number of steps, including amendments to its website and its online refund form, to make it clearer to passengers on cancelled flights that they have the option of a refund and the steps they need to take to claim it. We have requested in addition that the airline amends the notification that it sends to passengers on cancelled flights to more clearly signpost passengers to the relevant page on its website. The CAA will continue to monitor the performance of the airline to ensure that it is not systematically denying passengers on cancelled flights their right to a refund.

**Ryanair** – Ryanair is one of the airlines that our review identified as not processing refund requests sufficiently quickly and as having a sizeable backlog of refund requests. In relation to refund processing timescales, at least initially the airline was taking 10 weeks or even longer to process refund requests. The CAA was not satisfied with this level of performance and requested that Ryanair provide it with commitments to reduce the time taken to process refunds, such that they are processed in a reasonable timeframe and one which is aimed at the 7 day period set out in Regulation EC261/2004. On 3 July, Ryanair published a set of commitments on its website related to the timescales for processing cash refunds. Ryanair confirmed that 90% of its backlog would be cleared by the end of July with all refund claims made in April to be processed by 15 July and most of the claims made in May by the end of July.

**TUI** – TUI is one of the airlines that our review identified as not processing refund requests sufficiently quickly and as having a sizeable backlog of refund requests. For passengers on cancelled flights, TUI's approach was to automatically issue a credit note for the value of the flight, indicating that the passenger would have to wait 28 days from receiving the credit note before they could claim a cash refund, which would then take a further 28 days to be processed. The CAA was not satisfied with this level of performance and requested that TUI provide it with commitments to reduce the time taken to process refunds, such that they are processed in a reasonable timeframe and one which is aimed at the 7 day period set out in Regulation EC261/2004. TUI has now confirmed to us that, as a result of investing further in the number of staff available to process refund claims, it is able to eliminate the step in its process of automatically issuing a credit voucher, and is instead automatically commencing the cash refund process once it notifies passengers of the

cancellation of their flight. In relation to refund processing timescales, TUI has confirmed that, on average, cash refunds will be processed within 14 days.

**Turkish Airlines** – Turkish Airlines is one of the airlines that, based on passenger complaints, the CAA had identified as not paying cash refunds. In its response to the enquiries that we have made as part of our review, the airline has confirmed that it is paying cash refunds as required. At the request of the CAA, the airline has also taken a number of steps, including amendments to its website, its online refund form, and the notification that it sends to passengers on cancelled flights, to make it clearer to passengers that they have the option of a refund and the steps they need to take to claim it. The CAA will continue to monitor the performance of the airline to ensure that it is not systematically denying passengers on cancelled flights their right to a refund.

**United Airlines** – United Airlines is one of only three airlines that our review has identified as having been consistently processing cash refunds quickly and as having only a small backlog of refund requests.

**Virgin Atlantic** – Virgin Atlantic is one of the airlines that our review identified as not processing refund requests sufficiently quickly and as having a sizeable backlog of refund requests. In relation to refund processing timescales, at least initially the airline was taking up to 60 days to process refund requests. However, the airline's performance became significantly worse and it provided a commitment to consumers that the maximum wait would be 120 days. The CAA was not satisfied with this level of performance and requested that Virgin Atlantic provide it with commitments to reduce the time taken to process refunds, such that they are processed in a reasonable timeframe and one which is aimed at the 7 day period set out in Regulation EC261/2004. Virgin Atlantic has committed to reducing the maximum time taken to process a refund and it expects to process all claims made in August within 80 days, all claims made in September within 60 days and all claims made in October within 30 days. We recognise that even with these improvements to processing times it still results in a lengthy wait for consumers. However, we consider that the improvement in the processing time is a step forward and provides greater clarity for consumers. We will continue to work with Virgin Atlantic and push them for further improvements to the timescales. Given the extended timescales even in September and October, we will be monitoring Virgin's performance particularly closely and will consider the use of formal enforcement powers if necessary.

**Westjet** – Westjet is one of the airlines that, based on passenger complaints, the CAA had identified as not paying cash refunds. In its response to the enquiries that we have made as part of our review, the airline has confirmed that it is paying cash refunds as required. The airline has confirmed to the CAA that it is contacting passengers on cancelled flights to inform them of the option for a cash refund and to advise them on how to claim it. The CAA will continue to monitor the performance of the airline to ensure that it is not systematically denying passengers on cancelled flights their right to a refund.

## Passenger complaints

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If passengers have been unable to obtain a cash refund, or accepted a voucher and consider they were not, at the same time, provided with the choice of a cash refund, they can make a complaint to the airline. If they are still unable to resolve their complaint, they can escalate it to an alternative dispute resolution body<sup>12</sup>. If the airline does not participate in alternative dispute resolution they can make a complaint to the CAA's Passenger Advice and Complaints Team<sup>13</sup>.

## Conclusions and next steps

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Our review identified three airlines were doing a good job of refunding passengers in a reasonable time frame and were making it relatively easy to request a refund. We also identified a number of compliance issues and we have worked informally with airlines to achieve improvements for passengers. We have ensured that airlines are offering the choice of a refund and making it clearer to passengers what their options are and how to request a refund. We have also achieved improvements in call centre performance. A number of major airlines have also committed to speeding up the time it is taking process refunds and we welcome the steps those airlines have put in place. We will continue to monitor those airlines and continue to push for further improvements. We will also consider if enforcement action is appropriate if airlines fail to meet the commitments they have made to us and their passengers.

Based on complaints data we have received we have also sent out a warning letter to around 30 other airlines setting out our expectations of compliance.

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<sup>12</sup> <https://www.caa.co.uk/Passengers/Resolving-travel-problems/How-the-CAA-can-help/Alternative-dispute-resolution/>

<sup>13</sup> <https://www.caa.co.uk/Passengers/Resolving-travel-problems/How-the-CAA-can-help/How-the-CAA-can-help/>