



# AVIATION ADR EU SCHEME RULES

Author: Dean Dunham

## AVIATION ADR EU SCHEME RULES

### INTRODUCTION

Aviation Dispute Resolution, “the **Scheme**” is an alternate dispute resolution scheme approved by [ ] in accordance with EU Directive (2013/11/EU) as an authorised ADR provider.

The Scheme is designed to reach a resolution of unresolved disputes in full and final settlement. It provides consumers with independent redress of complaints relating to acts or omissions of Airlines in relation to Passengers/consumer’s rights when they use the services of an Airline.

These Scheme Rules are applicable in relation to all complaints that relate to a service provided by an Airline within **Spain**.

For the purposes of the Scheme Rules:

“**Airline**” shall mean an Airline that has agreed to be a member of the scheme and be bound by the Scheme Rules;

“**Passenger**” shall mean an individual who is the purchaser and/or the recipient of goods or services provided by an Airline under an aviation services contract.

For the avoidance of doubt, claims brought by third parties on behalf of the Passenger, shall not be accepted.

“**Complaint**” shall mean the Passenger’s request that fall within the scope specified in Section 1 of this Scheme Rules.

“**Deadlock Letter**” shall mean the Airlines final response to the Passenger in relation to a dispute issued before the commencement of the complaint process governed by the Scheme.

### **Integrity and Independence**

Our independent status is at the heart of everything we do, as is our commitment to openness, honesty and integrity and we recognise the importance of this to everyone that relies on our services.

### **Independent Standards Board (“Board”)**

To help preserve our independence and provide an invaluable set of checks and balances on our work, the Board acts to regulate how we operate. All Board members share our vision of inspiring consumer confidence and raising industry standards and do so on a voluntary basis.

Governed by a set of internal rules, the Board regularly reviews a cross section of our determinations, to ensure they are both fair and reasonable. It also oversees our rules, practices and procedures.

## THE RULES

### 1. Scope of the Scheme

1.1 The Scheme can be used to settle disputes between Passengers and Airlines stemming from aviation services contracts relating to a direct flight whose point of origin and/or final destination is in an EU member state or aviation services contracts relating to a directly connecting flight where the point of origin, final destination or any point of connection takes place in an EU member state in the following areas:

- 1.1.1 Denied boarding, delay, or cancellation;
- 1.1.2 Destruction, damage, loss, or delayed transportation of baggage;
- 1.1.3 Destruction, damage, or loss of items worn or carried by the Passenger;
- 1.1.4 Problems faced by disabled Passengers or Passengers with reduced mobility when using air transport services; and
- 1.1.5 Any disputes arising where the Passenger alleges that the Airline has not acted fairly; that is, where the Airline has failed to provide the service as agreed under the contract for aviation services.

1.2 The Scheme cannot be used to settle disputes which fall into one or more of the following categories:

- 1.2.1 Claims brought by someone who does not fall within the definition of a Passenger (as defined above under 'Introduction');
- 1.2.2 Claims which are made against an airline that does not subscribe to the Scheme;
- 1.2.3 Cases where it has been less than eight weeks since the Passenger first complained directly to the Airline, unless the Airline has provided the Passenger with the Deadlock Letter in relation to the dispute and the Passenger refuses to accept the Airline's position;
- 1.2.4 The Passenger has not complied with the Airline's claims procedure (in particular Article 15.2 of 'the Member's general terms and conditions of carriage) before applying to the Scheme;
- 1.2.5 The dispute is frivolous and/or vexatious;
- 1.2.6 The subject matter of the dispute is the same as an existing or previous valid application made to the Scheme **by the same Passenger** about the same flight;
- 1.2.7 The dispute has been or is the subject of court proceedings or an alternative independent procedure for the determination of disputes (unless such court proceedings or alternative procedure have been abandoned, stayed or suspended).
- 1.2.8 Disputes where the Passenger is claiming a total sum of money which exceeds £25,000;
- 1.2.9 The Passenger brought the claim to us at least 12 months from the date upon which the Airline gave notice to the Passenger that the Airline was unable to resolve the Complaint (or, where no notice is given, at least 12 months since the Passenger's last attempt to contact the Airline).
- 1.2.10 Claims for which the validity period has expired under the respective laws.

**NOTE:** Putting a dispute through the Scheme does not remove the Airline's duty to pay the passenger any other amounts which are due and which are not disputed.

## 2. How to lodge a complaint

2.1 There are three ways to bring a Complaint to the scheme;

**By post** – where Passengers do not have access to the Internet: telephone +44 3303800208 and ask one of our team members to post a complaint form. Completed forms should be sent to: Airline Dispute Resolution,

Aviation ADR EU.EU

**Online** – Complaints can be lodged via our online portal. To access this simply go to the home page of our website [www.AviationADR.eu](http://www.AviationADR.eu), Chose the appropriate airline and then locate the ‘make a complaint’ button.

**By telephone** –telephone +44 3303800208 and speak to our aviation initial complaints team.

2.2 After lodging a Complaint Passengers are taken to their own personal portal page. This page provides you with live information about your claim so that you can check the progress at any time of day.

## 3. The Complaints process

3.1 Passengers must submit all relevant information and evidence in support of their complaint at the point of filing the Complaint with Aviation ADR.

3.2 Complaints go through a six-stage process.

### Step 1-4

3.3 Step 1 – 4 are dealt with by a complaint handler. The complaint handler’s role is to:

3.3.1 Review the initial complaint (Step 1).

A complaint is reviewed and decision made if it falls within the Scope of the Scheme, in accordance with Section 1 of the Scheme Rules. This will be completed within 7 days of submission of the complaint and the Passenger will be notified of this within 3 weeks.

3.3.2 Obtain all relevant information and documentation from the Passenger (Step 1).

If the complaint handler considers that further information is needed from the Passenger such information will be requested. The Passenger will then have 7 days to provide such further information, following which the Complaint will be moved to Step 2 without further recourse to the Passenger.

3.3.3 Obtain the Airline’s response/position (Step2).

The Airline will be presented with the Passenger’s Complaint and additional information and documentation collected in Step 1 and will be given 28 days to either:

- i. Confirm that it decidesto settle with the Passenger all of the remedies requested on the complaint form or that it has agreed to an alternative settlement with the Passenger via AviaitionADR; or
- ii. Send the Aviation ADR EU complaint handler a response to the Passenger’s claim.

In the event that the Airline requires further time to respond, the ChiefAdjudicator can authorise an extension of up to a further 14 days.

### 3.3.4 Liaise with the Passenger (Step 2)

Following submission of the Airlines response, the complaint handler will seek comments and further information from the Passenger if the airline provides any information or documentation that

- i) has not already been referenced in the Passenger's complaint form or
- ii) contradicts what the Passenger has said.

The Passenger will be given up to 14 days to respond and the Airline will be notified of any additional response issued by the Passenger, following which the Complaint will be moved to Step 3.

### 3.3.5 Compile a complete complaint file (Step 3).

The complaint handler will notify both parties that a complete complaint file has been received.

### 3.3.6 Consider if there is a quick resolution to the complaint (Step 4).

Within 14 days of the complete complaint file, the complaint handler will consider if it is possible to suggest an early resolution. If early resolution is not feasible or either party rejects, the Complaint will be moved to Step 5.

## Step 5

- 3.4 At this stage, the Complaint is dealt with by the Adjudicator office where a determination is made in writing.. Determinations will be produced within 90 working days of the complete complaint file.

## 4. Languages

Complaints will be dealt with in writing, in the language used by the Passenger when entering into a contract with the Airline, unless agreed otherwise between the parties.

## 5. Rejected Complaints

In the event that a complaint cannot be accepted, the Passenger will be notified of this within 3 weeks.

## 6. Completed complaint file

- 6.1 We receive a 'completed complaint file' as soon as the complaint handler has received all relevant information and supporting documentation from both the Passenger and Airline. This is effectively the conclusion of step 3 of the complaints process.
- 6.2 Upon being satisfied that we have a completed complaint file, the complaint handler will issue a notice confirming this to both parties.

## 7. Rights to withdraw from complaints procedure

- 7.1 Passengers have the right to withdraw from the complaints process at any stage and to bring a claim to court at any stage, by providing notice of withdrawal in writing to us.

- 7.2 Airlines do not have the right to withdraw from the complaints process.
- 7.3 Passengers should note that court proceedings may result in a different outcome to the ADR process.

## **8. Oral hearings**

Oral hearings (ie: face to face meetings or tele-conferences) will only take place if both parties agree.

## **9. Adjudicator Determinations**

- 9.1 The adjudicator will base his or her determination on i) the facts and supporting documentation available, ii) the applicable law/regulations and iii) what's fair and reasonable in the circumstances.
- 9.2 The determination is not binding on Passenger unless they agree to accept the determination. Passengers will be given 7 calendar days to consider and confirm whether they accept the determination.

## **10. Our powers**

- 10.1 All members are bound by The Membership Rules.
- 10.2 Under our powers we can direct the Airline to:
  - 10.2.1 Issue an apology; and/or
  - 10.2.2 Pay compensation, in accordance with EC1107, EC261 or the Montreal Convention.

## **11. Use of information**

- 11.1 Records will be maintained of all discussions and correspondence, which take place during the complaint process. All communications and documentation may be shared with both parties.

## **12. Conflict of interest**

- 12.1 We operate a strict conflict of interest policy which can be seen at Schedule 2.
- 12.2 If, after consideration of the Passenger's Complaint has commenced, it is discovered that the ADR official handling the Passenger's Complaint has a conflict of interest the case will be immediately moved to another ADR Official within the Scheme or if more appropriate ADR will cease handling the Complaint. In the latter case we will assist the Passenger in transferring their Complaint to another ADR entity and pay any fee payable by the Passenger for doing so. If another ADR entity cannot accept the Complaint (or there is not another ADR entity) we will only continue handling the Complaint with the consent of the Airline and the Passenger.

### **13. Complaining about Aviation Dispute Resolution**

13.1 All complaints should initially be addressed to:

The Chief Executive

Aviation ADR EU.EU

13.2 Complaints should be in writing and should provide full details of the complaint, including your complaint ID number and the name of the complaint handler where possible/applicable.

13.3 The Chief Executive will respond to all complaints within 3 weeks.

13.4 If your complaint concerns the Chief Executive or if you are not satisfied with the Chief Executive response to your complaint, you can escalate your complaint to the following:

Sir Eric Peacock

Chairman – Independent Standards Board - Aviation ADR EU.EU

### **14. Evidence of award**

Where the determination is made in favour of the Passenger and accepted by both Parties, the Airline shall provide Airline Dispute Resolution with evidence that it has fully complied with the terms of the determination, within 7 calendar days of the deadline for such compliance.