



Consumer Awareness: COVID-19 flight cancellations

The transport industry is one of the most affected sectors by the COVID-19 crisis as countries worldwide have restricted air travel. Below we set out guidance if your flights have been cancelled:

EU passenger rights

Passengers who have had flights cancelled as a result of the COVID-19 crisis have rights under European Union (EU) legislation, if they are:

1. flying on an airline registered in an EU Member State;
2. their flight departs from an Airport located in an EU Member State; or
3. their flight lands in an Airport located in an EU Member State.

As a result all flights from or to Gibraltar, with the exception of flights directly from Gibraltar to Morocco (see section below), are covered by this legislation.

EU Guidelines

EU legislation gives air passengers specific rights that ordinarily offer certainty and consistency regarding airlines' obligations as a result of cancellations. In light of the unprecedented number of cancellations resulting from the pandemic however the applicability of these has come into question.

The EU Commission and Parliament have therefore provided the following guidelines in the context of the developing situation with Covid-19 reaffirming that passenger rights remain unaffected:

1. EU Commission on 18th March:
(https://ec.europa.eu/transport/sites/transport/files/legislation/c20201830_en.pdf);
2. EU Parliament on 24th March:
<https://www.europarl.europa.eu/news/en/headlines/society/20200323STO75616/coronavirus-facts-about-your-passenger-rights>.

Both EU institutions set out that airlines continue to have the obligation to offer passengers the following options when cancelling flights:

1. Refund;
2. Re-routing at the earliest convenience; or
3. Re-routing at a later date, chosen by the passenger.

Airlines offering vouchers

Most airlines are offering their customers the opportunity to change their travel plans free of charge as an alternative to a refund. If you still want to travel then this appears

to be the simplest option. You should note however that you are rebooking at a time where there is uncertainty about future travel restrictions and that, given the hit to the airline industry generally, there is a possibility that some airlines may go out of business. Many airlines are seeking assistance from Governments to help them survive the crisis.

Some airlines appear to be pushing customers towards getting a voucher instead of refunds and are making it difficult to make refund claims. This is not surprising given that they are struggling, however your rights to a refund are nevertheless protected and you can claim a refund. You should note however that in the circumstance getting a refund may be quite a lengthy process.

Unresolved claims

Passengers should always in the first instance attempt to resolve their claim with the airline directly. Obviously airlines are suffering an extremely large volume of queries regarding cancellations at the present time and there are long waiting times to talk to airlines. However, passengers with cancelled flights should be aware that they will not lose their right to reimbursement or re-routing if they do not resolve their claim prior to the date of departure of their journey.

If you are dissatisfied with the response of an airline to your complaint, and have exhausted all options with the airline directly, you can consider alternative dispute resolution (ADR). Airlines should send you information on whether ADR is available in their final response. If you have not received a final response in eight or more weeks, you may also be able to refer your complaint to the ADR body directly. The UK Civil Aviation Authority (CAA) sets out which airlines have ADR scheme. Both British Airways and EasyJet have ADR schemes: <https://www.caa.co.uk/Passengers/Resolving-travel-problems/How-the-CAA-can-help/Alternative-dispute-resolution/>

Flights to and from Morocco

Flights to and from Gibraltar operated by Royal Air Maroc Express are not covered by the European Regulations. Their website has information about the airline's COVID-19 measures: (<https://www.royalairmaroc.com/int-en/Travel-Info/Traffic-information-and-alerts/Royal-Air-Maroc-commercial-measures-considering-the-current-situation-of-the-COVID-19>). These appear to allow for flight changes but do not mention refunds.

For refunds passengers should approach the airline directly to understand their refund policy. If you are calling the airline please bear in mind that there may be long waits.

If you have unsuccessfully exhausted all avenues with the airline and you have paid for your flight with a Visa, MasterCard or American Express card you could try to chargeback on your card. This is a protection offered by these debit or credit card provider where you do not receive the goods you bought using them. Note that such a



refund would be at the card provider's discretion and it is unclear whether this can be used in the COVID-19 crisis. Claims must usually be submitted within a 120 days.

DCA Assistance

If you have exhausted the available avenues **for any flight** cancellation, and you remain unhappy with the outcome you can contact the Director of Civil Aviation (dca@gibraltar.gov.gi) who will be able to advise on possible options that remain.

What if I (rather than the Airline) decide to cancel my flights?

If you cancel your trip on your own initiative, the refund depends on the type of ticket you purchased, as specified in the terms and conditions. You should consult the airline carrier for more details.

Will my travel insurance cover me?

Insurers should cover you for cancellation given that the Foreign and Commonwealth Office is warning against non-essential travel to all destinations.

To be sure of what each insurer will cover check their website as many list their coronavirus cover there. You should also check your policy terms. If the extent of your cover remains unclear then get in contact with your insurer.

The above is issued as guidance only and should not be considered or relied upon as legal advice.