

[INSERT NAME & ADDRESS OF TRAVEL COMPANY]

[INSERT YOUR NAME/ADDRESS]

[INSERT DATE]

Dear Sirs

PLEASE DO NOT IGNORE THIS LETTER

LETTER DRAFTED IN COMPLIANCE WITH: PRACTICE DIRECTION - PRE-ACTION CONDUCT & PROTOCOLS

Introduction:

I would ask that you familiarise yourself with the above Protocol found in the Civil Procedure Rules. if you believe that another Protocol is more relevant to our dispute, please advise by return so that any further contact by me is adjusted accordingly.

I am writing this letter to you, in compliance with the above Protocol and to support my previous correspondence; you have received and acknowledged the following letters/emails:

1. [SUMMARISE EACH LETTER BY: DATE/METHOD OF SENDING/VERY BRIEF CONTENT - INCLUDE ANY ANNEXES].

Important Notice:

Please ensure that you bring this letter to the urgent attention of your legal representative or insurer. Failure to take this action will result in this being brought to the attention of the court should proceedings become necessary.

Brief Facts:

The facts between us are well known and details of my holiday booking and request of my rights, can be found in the letters/e mails detailed above.

For the sake of further clarity, I shall summarise your response.

Your position is that you have decided to unilaterally present me with a Credit Refund Note (CRN). The CRN advises that whilst I can use it to book another holiday, I can also seek a refund, but, that request for a refund can only be made at the end-date of the CRN, [INSERT DATE].

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Based on this CRN, it is clear that I have no opportunity to receive the return of my monies before that date. Indeed, it is implied that the wait could be for a longer period. The CRN has been delivered to me fait-accompli and with complete disregard of the recommendations of the European Commission dated 13 May 2020. Further, your CRN is completely unclear on the Financial Protection of my monies and indeed, I am being asked to agree to a new set of Ts&Cs, which again suggests that these could potentially override my Package Travel Rights.

In summary, you are failing to respect my rights and more importantly, you have failed to engage with me on what constitutes as a “reasonable” period for the delivery of my rights.

I have attempted to engage with you, but you have failed to even respond to many of the points I have raised nor indeed make any attempt to resolve matters, above your entrenched position. You have given the clear impression that you believe that you will prevail at court or in any other forum.

Your approach does not match the expectation of the parties in dispute under the above named Protocol.

Key Issues/Unanswered Questions:

To aid your Legal Representatives or Insurers, I shall now briefly deal with the the principal issues in my complaint. Please indicate acceptance of each individual item by stating “Yes” or “No” - if you indicate “No”, please set your full reasons for that indication:

1. Please indicate that you accept that all the following items are relevant to this complaint:

1. Articles 126 & 127 - Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community - 13 October 2019;
2. Directive (EU) 2015/2302 - The Package Travel Directive;
3. The Package Travel & Linked Travel Arrangements Regulations 2018;
4. EU Document - Information on the Package Travel Directive in connection with COVID19 - 19 March 2020;
5. EU Document - COVID-19: Recommendation on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services - 13 May 2020;
6. Consumer Rights Act 2015 - Unfair Terms.

2. Please indicate that you agree with the following:

1. That you issued an ATOL Financial Protection Certificate for my holiday on [INSERT DATE];
2. That the ATOL Certificate states that the product to be protected was a “Package Holiday”, identifying that “flights, hotel, transfers” were protected along with identifying members of my party who would benefit from this protection;
3. You are identified as the sole company for whom this certificate was valid for, along with being the issuer of the ATOL Certificate, in other words, the Organiser of this holiday;

3. Please indicate that you agree with the following:

1. That the Package Travel & Linked Travel Arrangements 2018 (PTR) apply to this booking;
2. That you are the Organiser as defined within the PTR;
3. That I have a Package Travel Contract as defined within the PTR;
4. That my rights are contained within:
 1. Preamble 31 of the Package Travel Directive;
 2. Regulation 12 of the PTR;
 3. Regulation 13 of the PTR;

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4. Regulation 14 of the PTR;
 5. That your Terms and Conditions reflect the provisions of the PTR;
- 4. Please indicate that you agree with the following:**
1. That you accept that you have 'knowledgeable members of staff' and that you are 'travel experts' (taken from your 'About us' section);
 2. Therefore, you are an experienced Travel Company;
 3. That you closely monitor "situations" at destinations through your representatives and agents;
 4. That you received my booking deposit on [INSERT DATE];
 5. That you received full payment on [INSERT DATE];
 6. That you were aware of the growing COVID19 crisis on [INSERT DATE YOU MADE FINAL PAYMENT], further:
 1. That you were aware of the UK concerns on [INSERT DATE YOU MADE FINAL PAYMENT];
 2. That you were aware of the [NAME OF HOLIDAY COUNTRY] concerns on [INSERT DATE YOU MADE FINAL PAYMENT];
 3. That you were aware of the UK's COBRA meeting on 2 March 2020 (advance notice had been given);
 4. That you were aware of the WHO's declaration of a Pandemic on 12 March 2020;
 5. That the UK initially advised UK Nationals from travelling abroad except for essential travel on 17 March 2020;
 6. On the date I paid my final balance and on the balance of probabilities, you would accept that given the global actions on COVID19, there was a likelihood that a holiday in [INSERT MONTH] 2020 would not go ahead;
- 5. Please indicate that you agree with the following:**
1. That you accept that I have requested a refund because the holiday was subsequently cancelled;
 2. That my right to a refund is contained within the PTR;
 3. That in my right to a refund under the PTR, I should expect to receive that refund within 14 days;
- 6. Please indicate that you agree with the following:**
1. That you have not paid my refund according to the provisions of the PTR;
 2. That you have given me a Credit Refund Note (CRN) in lieu of the refund;
 3. That the CRN provides that I can use the CRN to book another holiday;
 4. That if I do not book a holiday, then I can formally request my refund on [INSERT END DATE OR OTHER DATE STATED IN CRN];
 5. That it is you who has arbitrarily set the date when I can formally request the refund of my monies;
 6. That you did not seek to negotiate a date with me for my refund, that would be acceptable to both parties;
 7. That the offering of this CRN does not give me true "choice" by reference to what would be deemed to be a "reasonable" time-limited choice;
- 7. With regards to the CRN, please indicate that you agree with the following:**
1. I would refer you to the EU Document and its "recommendations";
 1. You are seeking to impose the CRN and its conditions on me;
 2. That this imposition cannot be said to be giving me "choice" nor would it be classed as "voluntary";
 2. Through the CRN, you are seeking to:
 1. Impose a new set of terms and conditions on me, or
 2. You are seeking to vary the terms and conditions of our original contract without any true negotiation or agreement from me;
 3. You are continuing to confuse your status as Organiser of the holiday by trying to enforce 3rd party terms and conditions on me;

4. That the 'new' terms and conditions are unfair by reference to the Consumer Rights Act 2015 (Section 63; Schedule 2, Part 1, No's 2, 7 & 19 as an initial observation);
5. You have advised that if I do not accept the CRN for booking a holiday that I would have to wait significantly longer for my refund;
 1. On this point, can you provide clarity on what you mean by significantly longer - is that longer than the condition that I can only formally request my refund on [INSERT END DATE OR OTHER DATED STATED IN CRN]?
6. In the CRN you state 'in accepting this credit note', which implies that you have assumed that I have voluntarily accepted what you have offered; is that correct?
7. That you are asking me to accept the CRN without any clarity, official or otherwise, as to whether the CRN is Financially Protected;
8. In the CRN, are you asking me to accept any future limitations to any holiday that I choose to book arising from COVID19?
9. You state that the CRN is only valid if no other steps are taken to secure my refund. I consider that this is an unfair contract term and this is evidenced by the Consumer Rights Contract 2015, Schedule 2, Part 1, No 20; do you agree?
10. That you can unilaterally change the terms and conditions of the CRN without reference to me;
11. That you have not referenced the PTR within the CRN and the nature of our Package Travel Contract;
12. That your actions to-date are disproportionate to my requests and that you are seeking to take an unfair advantage of me through your actions; introducing complex legal issues which would require expensive and disproportionate costs by me to fathom the implications of what you are doing. This reaction by you to my request flows against how parties should behave in a dispute and could be viewed as working against the spirit of the Protocol; do you agree?

How am I seeking to resolve matters?

I am not deaf to the Travel Industry's plight.

However, it is clear that you are seeking and failing to respect my rights by circumventing them through the CRN.

The list of your failures are obvious from the range of issues I have highlighted above; they do not need further detailing at this stage.

To resolve this matter:

1. You need to engage properly with me and that engagement must be respectful to me and my rights;
2. You need to discuss the key issue in this crisis as to what is "reasonable", measured against your obligations to me in Law;
3. The period you suggest that is "reasonable" for the return of my monies could not be considered to be a "reasonable" period;
4. That period needs to be defined and agreed by both parties, so that it respects my right to have my money returned within a "reasonable" period;
5. With respect, waiting until [INSERT MONTH] 2021 is not "reasonable";
6. I would suggest that my monies be returned to me within 45 days of the date of my now cancelled holiday;

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7. For the avoidance of doubt, the date of the holiday was [INSERT DATE & MONTH] 2020, therefore I should receive my monies by [INSERT DATE 45 DAYS LATER] 2020 based on this 45 day “reasonable” period;
8. Note; I have not discounted the period from [INSERT DATE YOU MADE YOUR FINAL PAYMENT] to [INSERT DATE YOU SEND THIS LETTER] 2020; that period constitutes [INSERT THE CALCULATED PERIOD OF THESE DAYS] days;
9. This means that in total, up to the [INSERT DATE OF THE END OF THE 45 DAY PERIOD] 2020, you will have had, [INSERT TOTAL NUMBER OF DAYS FROM DATE OF YOUR FINAL PAYMENT AND THE END OF THE 45 DAY PERIOD] days to return my monies; I consider that I have been more than “reasonable”;
10. Please indicate your agreement to this compromise.

Conclusion:

Please ensure that you pass this letter onto your legal representatives or insurers.

To comply with the Protocol I am expecting a formal response within **14 days**, if that period is not possible, then your representatives should indicate the period they expect to respond within and the reasons why. I look forward to hearing from them directly.

In the event that you fail to respond adequately, fail to negotiate, fail to compromise, I shall examine the full range of options open to me. If I have to take further action to recover my monies, I shall bring your conduct to the attention of the court and reserve my right to produce this letter and all documentation relevant to my complaint to the attention of the court. In particular, I reserve my right to produce all relevant documentation on the issue, to the court, on the question of any costs related to this complaint.

Yours Sincerely,