



Maritime &  
Coastguard  
Agency

## United Kingdom National Enforcement Body activity report for 2015

### Rights of passengers travelling by sea and inland waterway (Regulation (EU) N° 1177/2010)

#### 1. Introduction

Under the provisions of Article 26 of Regulation (EU) 1177/2010, the National Enforcement Bodies (NEBs) of each EU Member State are required to publish a report on their activities in the previous two calendar years. In particular, the report should focus on a description of actions taken in order to implement the provisions of the Regulation, statistics on complaints and any sanctions that may have been applied.

In 2013 there were 10.2 million sea passengers departing from UK ports on international ferry services, 22.1 million sea passenger movements on domestic ferry services within the UK, 21.1 million passenger movements on river ferries within the UK and 1.94 million passengers embarking on or disembarking from cruises and long sea journeys at UK ports<sup>1</sup>.

There are 106 Port Facilities throughout the UK dealing with passengers, plus one Port Facility in Gibraltar. Some of these facilities may only handle passengers on an occasional basis (e.g. an infrequent call by a cruise ship) whilst others will handle passengers on a regular and daily basis (e.g. Dover).

#### 2. The UK National Enforcement Body (UK NEB)

The UK's National Enforcement Body is the Maritime and Coastguard Agency (MCA). The MCA is an executive agency of the Department for Transport. The UK NEB became fully operational on 18 December 2012 when the Regulation entered into force.

The MCA's role as UK NEB is prescribed in national regulations<sup>2</sup>. These regulations also set out the penalties and offences regarding non-compliance with the EU Regulation with a fine being payable on conviction. Earlier this year, these penalties were uplifted in line with wider national provisions and now have the effect of imposing unlimited fines in cases where there are breaches of the Regulation.

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<sup>1</sup> Source: UK Department for Transport Maritime Statistics

<sup>2</sup> Statutory Instrument 2013 No. 425 (The Merchant Shipping Passengers' Rights) Regulations

The UK NEB monitors and organises inspections of carriers, terminal operators, ticket vendors and other outlets in scope of the Regulation through checks, visits, exchange of information.

The UK NEB (in co-operation with the Department for Transport) maintains regular contact with organisations that represent carriers, passengers, disabled people, consumers and other national authorities.

To date, there has been little need for any significant co-operation with NEBs of other EU Member States, either in terms of passing complaints on or for other enforcement reasons.

### **3. The Complaint Handling Procedure**

The UK has chosen not to adopt a standard complaint handling form for maritime passengers. Instead passengers are able to make their complaint in all formats - by letter or electronically, such as email or through an online form, if that is available.

In order to ensure that complaints are properly handled and resolved as quickly as possible, the UK has adopted a three tier approach for managing passenger complaints in scope of the EU Regulation. This approach places the emphasis on carriers and operators to try to resolve complaints without recourse to the enforcement body.

#### **Tier 1**

In the first instance, passengers should raise their complaint directly with the **port terminal operator / carrier** who provided the service. In most cases it would be envisaged that the issue can be resolved to the satisfaction of all parties. If the complaint cannot be resolved at this stage, and the operator's internal complaint handling procedure has been exhausted, the complainant can escalate the matter to a voluntary complaint handling body at Tier 2. The operator should make the complainant aware of this option.

#### **Tier 2**

The **voluntary complaint handling bodies** deal with complaints that arise from ports, or on services departing from ports, within their own jurisdiction. Passengers with complaints relating to ports or services in other UK jurisdictions will be directed to the relevant voluntary complaint handling body.

The role of the voluntary complaint handling body is to act as an impartial arbitrator who will examine all the facts, seek further information or clarification and reach an opinion about the complaint and recommend what course of action or redress would be appropriate.

There are five voluntary complaint handling bodies set up in the UK. Details of these can be found in **Section 6**.

If the complaint cannot be resolved at this stage, the complaint may then be escalated to the national enforcement body for the EU Regulation.

### **Tier 3**

The role of the **UK NEB** is **not** to act as an arbiter or conciliator between the passenger and the carrier or terminal operator. However, where disputes arise on whether alleged breaches under the EU Regulation have taken place, the UK NEB may be asked to investigate.

The UK NEB is responsible for investigating cases where there has been a breach of the EU Regulation. The UK NEB will take measures necessary to ensure compliance with the EU Regulation.

#### **4. Enforcement**

There is an established sanctions and penalties framework already in place (as set out in Section 2). To date, no penalties have been imposed following a complaint, nor has the UK NEB transferred any complaints to the NEBs of other Member States. It has proven to be more effective to educate and work with industry towards achieving compliance, rather than impose sanctions and other penalties, particularly when non-compliance is so often the result of a misunderstanding or unawareness of the rules which are still relatively new

It is not currently practical for the UK NEB to visit every port in the UK over the course of one year, in order to assess compliance with specific Articles (such as Article 9 – which relates to ‘Accessibility and information’).

However, in 2013-14, the UK’s NEB was able to visit 14 ports around the UK, consisting mostly of the major passenger terminals (such as Dover, Southampton and Belfast), but also a number of smaller ones.

The NEB assessments covered a wide range of compliance issues, including issues around the implementation of Article 9. Based on the number of ports and operators visited, only minor shortcomings have been identified (such as the clear provision of information) and these have been addressed, with the terminal operator or carrier advised on how to rectify such shortcoming to the NEB’s satisfaction.

## 5. Guidance

The UK NEB has taken steps to ensure that information is disseminated about sea and inland waterway passenger rights.

Comprehensive passenger guidance is available at - [www.gov.uk/government/publications/draft-guidance-notes-relating-to-regulation-eu-no-1177-2010](http://www.gov.uk/government/publications/draft-guidance-notes-relating-to-regulation-eu-no-1177-2010).

This includes nine guidance documents which are intended to provide general information on those provisions within Regulation (EU) 1177/2010 concerning the rights of passengers when travelling by sea and inland waterway. This guidance specifically relates to the rights of the passenger (including persons with reduced mobility) the obligations of carriers (e.g. cruise and ferry operators), port terminal operators and travel agents. All guidance documents are available in paper format on request to either the UK NEB or the Department for Transport.

Additional information is available in the public domain but which is primarily aimed at Ship Owners and Agents; Ship Operators, Managers and Masters; Seafarers; Marine Surveyors and Port and Terminal Operators through the Marine Guidance Note 504 available at - [www.gov.uk/government/publications/mgn-504-maritime-passenger-rights-national-enforcement-body](http://www.gov.uk/government/publications/mgn-504-maritime-passenger-rights-national-enforcement-body).

The UK NEB has also provided a poster template for carriers and port terminals to display, and which communicates the rights of the passenger and the provisions of the Regulation, as required under Article 23(1).

## 6. Voluntary Complaint Handling Bodies

There are 5 voluntary Complaint Handling Bodies who handle Tier 2 level complaints. These are:

- **Association of British Travel Agents (ABTA)** for complaints related to ferry services in England and Wales;
- **Cruise Lines International Association UK and Ireland (CLIA)** for complaints for cruise services in England and Wales;
- **Consumer Council for Northern Ireland (CCNI)** for complaints on ferry and cruise services in Northern Ireland;
- **London Travel Watch** for complaints on services operated, contracted and / or licensed by Transport for London; and
- **Transport for Scotland** for ferry and cruise service complaints in Scotland.

## 7. Statistical Data

All voluntary complaint handling bodies liaise with the UK NEB in the preparation of the biennial enforcement report, and provide data and analysis when asked to do so and, in order to streamline responses from each voluntary complaint handling body, a standard reporting template has been developed by the Department for Transport and the UK NEB for reporting purposes for all voluntary complaint handling bodies to use. The UK NEB also meets regularly with representatives of the voluntary complaint handling bodies to discuss any issues of concern or trends.

### Complaint Handling at Carrier / Terminal Operator Level

Whilst information may be kept by carriers and terminal operators for their own internal audit, there is no statistical data available relating to complaint handling at operational level, since this is not a mandatory requirement.

### Recording and Monitoring Complaints

Between 18 December 2012 and 31 December 2014 there were 25 complaints received by the voluntary Complaint Handling Bodies.

These are summarised here:

Year	Number of complaints received by CHB's	Reason for complaint (e.g. cancellation, delay, discrimination, lack of assistance, please indicate whether it is a disability related complaint):		Comments (if any). Please specify how many of the cases received were satisfactorily resolved. If applicable, please indicate what happened to the unsolved cases (referral to Court, ADR alternative dispute resolution)?
		Cancellation related	Disability related	
From 18 December 2012–31 December 2013	14	11 ferry 0 cruise	1 ferry 2 cruise	All resolved by the relevant Complaint Handling Body
From 1 January 2014 -31 December 2014	11	8 ferry 0 cruise	2 ferry 1 cruise	All resolved by the relevant Complaint Handling Body

The data can be further broken down as follows:

There were:

- 17 complaints related to Article 19 – ‘Compensation of the ticket price in the event of delay in arrival’;
- six complaints related to Article 10 – ‘Right to assistance in ports and on board ships’, including one also related to Article 7 – ‘Right to transport’;
- two complaints related to Article 17 – ‘Assistance in the event of cancelled or delayed departures’; and
- one complaint connected to Article 18 – ‘Re-routing and reimbursement in the event of cancellation or departures’.