



## **Brexit and Flight Delays – Will You Still Get Compensation?**

Easyjet is threatening to move its HQ to another European location, 1000s of trade laws and legal regulations are about to be examined and maybe overturned- where does that leave the hapless UK traveller post Brexit?

Julian Ireland, a Commercial Litigation Solicitor at leading and award winning regional law firm Pictons says “We obviously do not know whether an agreement can be reached between the UK and the EU to protect consumer rights on delayed flights and many other aspects of consumer law – like everything else connected with the UK’s Brexit decision, we have a long and complex road ahead and will have to watch this space.”

In the meantime, it’s business as usual. When you’re stuck at the airport after a great holiday, that lovely feeling of calm contentment is rapidly seeping from your suntanned body as your fractious tired children and grumpy spouse just want to get on the plane.

Your flight was meant to depart hours ago but instead you are crammed in an overcrowded airport which can barely offer you a glass of water and a very stale sandwich. You feel helpless, frustrated and you berate the uncommunicative airline staff and threaten to sue for enormous sums of compensation. But what’s your actual legal position on this – what are the airlines’ legal obligations and can you claim compensation?

### **Airline Assistance**

Under the Denied Boarding Regulations the amount of assistance the airlines are obliged to provide depends on the amount of time you are delayed and the length of your flight.

You must have a confirmed booking, checked in on time or, if you didn’t need to check in, then you arrived at least 45 minutes prior to the plane’s departure.

If your personal circumstances fit one of the following criteria then the airline must provide you with meals, refreshments (appropriate for the delay), two free phone calls, faxes or emails. If an overnight stay is required then the airline has to provide hotel accommodation, including transfers.

The basic criteria relating to flight delays are as follows:

1. If your flight is less than 932 miles and the delay is more than two hours
2. If your flight is more than 932 miles (within the EU) and is delayed for more than three hours
3. If your flight is not within the EU but is between 932 and 2,174 miles and is delayed for more than three hours
4. Any other flight delayed for more than four hours
5. If the flight is delayed for more than five hours but not cancelled and you choose not to travel you are entitled to a refund on your ticket.

## **Compensation**

In 2004 the EU introduced new regulations which stated that any airlines which are either departing from an EU airport or are an EU member state airline flying into an EU airport must pay compensation to passengers for flights which are either heavily delayed or cancelled.

This means that if your flight is delayed by more than three hours or if you miss a connecting flight and arrive at your final destination more than three hours later than scheduled you are entitled to claim compensation of between 250 - 600 Euros, depending on the length of the flight and the delay.

Passengers have had the right to claim compensation since 2005 so why is this always in the news? Because under the Regulations the airlines have been able to put forward a defence that the delay was due to an "extraordinary circumstance". This can be a whole range of things, from terrorism and industrial action to that most familiar of phrases 'technical problems'.

The Court of Appeal upheld a lower court decision which held that 'technical problems' was not a defence. The ruling was that "difficult technical problems arise as a matter of course in the normal exercise of the carrier's activity". It would appear that any technical fault must be unpredictable, unavoidable and external, which leaves this open to debate.

Julian Ireland concludes "The above ruling had a significant impact on the airlines, which have had to pay significant amounts of compensation to delayed passengers. The fact that the UK is withdrawing from the EU will not effect your entitlement to compensation at this stage as these negotiations will be lengthy. We obviously do not know whether an agreement can be reached between the UK and the EU to protect these consumer rights at this stage but obviously we hope so. "