



## Flight delayed or cancelled because of extraordinary circumstances?

Passenger's whose flights have been delayed or cancelled may be entitled to compensation. The amount will depend on whether the flight was cancelled or delayed, the distance of the flight and the length of the delay in reaching the destination airport.

Passengers who experience delays or cancellations will not be entitled to compensation if the flight is cancelled because of extraordinary circumstances. Extraordinary circumstances are events outside the airlines control which prevent a flight from departing as scheduled. Our [Plane Facts guide](#) contains details of the amounts and the circumstances in which you may be entitled to claim.

### Jet 2 v Huzar Judgement

A recent judgement in the Court of Appeal focuses on the extraordinary circumstances exemption that exists with the European Regulation that covers passenger rights to compensation when flights are delayed or cancelled.

The view is that the Court of Appeal judgement confirmed that normal technical problems that cause flight disruption such as normal wear and tear should not be considered an 'extraordinary circumstance'. What this means is that an airline can only cite an event as a 'technical fault' as a reason for not paying compensation if the fault was originally caused by an event that was 'out of the ordinary'. So this means that technical faults such as a part of the aircraft failing before departure will generally not be considered as extraordinary circumstances.

However, there may be further developments as Jet2 has lodged an application to appeal with the Supreme Court.





### **My flight was delayed or cancelled because of technical issues. How does the judgement affect my claim for compensation?**

- New claims (for flights that fall within the six year limitation period) should be assessed by airlines in the light of the judgement.
- Claims previously put to an airline can be reconsidered in the light of the judgement, if the passenger wishes, unless the passenger agreed a settlement with the airline.
- Claims that have already been decided by a court cannot be taken back to court unless they are within the time limit for an appeal.

### **What should I do now?**

If you have not already submitted a claim to the airline or to a court you should lodge a claim with the airline now.

If you have previously submitted a claim to an airline and it was rejected, or raised your complaint with the Consumer Council, you should contact the airline again to re-submit your claim. Make sure you get confirmation from the airline that your claim has been received. Alternatively, you may wish to submit your claim to the Small Claims Court (for claims up to £3000).

For passengers whose claim may 'time out' in the next year (by going over the six year limitation period for claims) you may wish to lodge your complaint with the Small Claims Court.

Jet2 has lodged an application to appeal with the Supreme Court. Therefore both airlines and the court may delay processing claims until the outcome of this is known. The airline should fully inform you if they plan to await this decision before assessing claims.

### **Further information**

The Consumer Council has produced Plane Facts, a guide that explains your rights and responsibilities as an air passenger, which can be accessed via <http://www.consumerCouncil.org.uk/transport/air-travel/> You can contact the Consumer Council for more information or to make a complaints on 0800 121 6022 or [complaints@consumerCouncil.org.uk](mailto:complaints@consumerCouncil.org.uk)

