



Compensation for flight delays

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A consumer took on an **airline (Jet2.com)** over its refusal to pay **compensation** for his **flight** being delayed and won, despite the airline taking the matter to the **Court of Appeal**. This could open the floodgates, not only in relation to **new claims** for delayed flights but also for those that have previously had their claims refused.

Here's what you need to know:

Can I claim for a delayed flight?

To be in with a claim your flight must:

1. have either left or arrived into an EU airport;
2. have been with an EU carrier; and
3. have been at least three hours late

So, if you flew out of Heathrow to Spain with BA and your flight was delayed for three hours or more you will have a claim. However, if you flew with Quantus (an Australian carrier) you will not.

My delay was four years ago, can I still claim?

Yes, under English Law you generally have six years to bring this type of claim. Under EU laws it is possible to make a claim for a flight as far back as 2005 although it is safer to consider that six years is the cut off time.

How much can I claim?

The amount that you can claim depends on the distance of the flight and the length of the delay, for instance up to 1,500km and more than three hours delay would mean €250/£215 and a journey 3,500km plus delayed by more than four hours would be compensated with €600/£520 (exchange rates variable).

How does this week's court ruling help consumers?

To bring a successful claim the delay must have been the **airline's fault** as anything that was out of their control will fall into an "extraordinary circumstances" category and give the airline a defence to your claim. The airlines have been abusing this defence by making the definition of what was out of their control and therefore "exceptional circumstances" very wide.

In relation to the court ruling this week the flight was from Malaga to Manchester in October 2011 and was delayed by 27 hours following a defect with the plane's fuel valve. **Jet2**, the carrier, claimed that its customer could not claim as the problem with the fuel valve was out of their control and as a consequence fell within the extraordinary circumstances defence. The **Court of Appeal** considered this and held that when determining whether a delay or cancellation was caused by an extraordinary circumstance one must fundamentally bear in mind that the circumstances must be "out of the ordinary".

For an event to be "out of the ordinary" it must "stem from events which, by their nature or origin, are not inherent in the normal exercise of the activity of the air carrier concerned."

In the context of technical problems one must crucially ask what caused the technical problem. If the cause is one which is "inherent in the normal exercise of the activity of the air carrier concerned" then it necessarily follows that it is also within the control of the carrier and therefore not extraordinary.

So the problem with the fuel valve in this case was simply down to wear and tear and the Court quite rightly took a common sense approach to this and held that wear and tear is entirely ordinary and therefore not extraordinary.

My claim was previously rejected due to extraordinary circumstances what can I do?

Despite this weeks ruling some circumstances are still properly deemed as "extraordinary". For example the following events will



provide the airlines with a defence:

- extreme weather conditions
- acts of terrorism
- political unrest in the arrival or departure destinations
- bird strikes
- industrial action at the arrival or departure airport

However, if the airline told you that your claim was rejected due to a technical fault with the aircraft I now seems clear that this is not a good defence for the airlines. If this has happened to you now is the time to go back to the airline and tell them that in light of the recent Court of Appeal decision you want them to re-look at your case.

A sting in the tail

Whilst this weeks Court of Appeal ruling is undoubtedly great news for consumers the game's not over yet. Jet2 have stated that they will be appealing the decision to the **Supreme Court** who of course could overrule the decision. With this being the case don't be surprised if the airlines refuse to re-look at claims until the Supreme Court has ruled on the case.

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