



Holiday Home Association News

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Local Lockdowns and Pessimistic Predictions

But staycations boom!

As what remains of the summer season continues, survey results show that the public remain pessimistic and cautious about holidays in general, whilst those who do risk leaving their own homes are mainly looking at UK holidays well into 2021.

Consumer research company BVA BDRC has been carrying out extensive research during the pandemic to assess consumer attitudes. A whopping 85% of consumers are expecting a second lockdown amid a second wave of the virus, although the mood is a little lighter on some other measures. Some 10% say they are better off financially than before the crisis. Only 14% of adults think the worst is behind us. As the year has progressed there has been a marked change in public attitudes with only a small minority now expecting normality any time in 2020.

The introduction of local lockdowns with different rules in different places,

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frequent changes, and differences between the legal requirements in regulations and the government guidance, is causing widespread confusion and uncertainty.

Researchers have segmented the public into bands according to their attitude, highlighting a divide in public attitudes between the worried and cautious at one end of the spectrum and the unconcerned brigade at the other. It is clear that more and more people are engaging in visits to restaurants, shopping, and UK holidays but that indoor attractions are not doing well.

Overseas holidays have been ruled out by most people, unsurprisingly in view of the chaotic changes to restrictions and quarantine that have been happening. However, we are still far from back to normal. The boom in UK holidays is without doubt fuelled by the difficulty of taking a holiday abroad and the risk of being quarantined unexpectedly on return.



Competition and Markets Authority on Consumer Rights

The CMA has published an updated statement of its view of the consumer rights situation now that many of the so-called “rules” for the public are contained in guidance rather than regulations.

The CMA point out the difference between guidance and law.:

Some legal restrictions have now been lifted, and the government has issued guidance about what people should do in place of or in addition to some lockdown laws.

Unlike lockdown laws, compliance with government guidance is not legally binding.

However, they somewhat contradict themselves by also saying that putting pressure on a consumer to disregard guidance might be against consumer protection law, although this isn't supported by any examples. Hopefully no HHA member would pressurise a customer anyway.

They acknowledge the current conundrum:

However, as lockdown laws and the nature of the legal restrictions they impose change over time, the consequences for individual contracts may become less clear-cut and more fact-specific. Ultimately only a court can decide how the law applies

They are clear that full refunds including of non-refundable deposits are required

Meanwhile a separate piece of research by research company Research Without Barriers for Cumberland Building Society found that 71% of respondents were planning to have a UK holiday in 2021, with hotels and cottages both popular. The research highlighted the public demand for attractive outdoor locations after the lockdown.

The BDRC research also shows a greater willingness to travel by public transport is very slowly coming back.

Overall, reading the research, the picture is one of a cautious public, not, yet, in financial trouble, increasingly looking to throw off the shackles of covid-19, but nervous about planning in the expectation of more disruption to come. For holiday homes, however, the position is optimistic so long as there is no re-introduction of a national lockdown affecting travel or accommodation. People are getting back into the UK holiday habit and many intend to have a staycation in 2021.

The BDRC research is an interesting and comprehensive report and marketing managers may be well advised to take it to bed instead of their usual salacious thriller!

<https://tinyurl.com/y2urn3xr>

where lockdown laws prevent the contract going ahead. The CMA refer to laws here, so what is now quite clear is that compliance with guidance that isn't law is not covered.

In some circumstances, due to lockdown laws, a contract cannot go ahead as agreed or at all, and is therefore 'frustrated'. A contract will be frustrated as a matter of law if, due to no fault of the parties, something happens after the contract was entered into which means it can no longer be performed at all or performance would be radically different to what was agreed.

As a result, the contract comes to an end and, where consumers have paid money in advance for services or goods that they have yet to receive, they will generally be entitled to obtain a refund. They will also not be required to make further payments.

An example is given, where it would be illegal for the consumer to take the holiday. Currently this would only affect people in local lockdown areas, but as local authorities now have powers to impose restrictions the actual legal position is more complicated than ever in areas of restriction.

Legally binding circumstances are outlined by the CMA thus:

- *restrictions imposed by local lockdown laws*
- *specific restrictions imposed by local authorities under their legal lockdown powers*
- *mandatory self-isolation following a direction from a public health officer*
- *mandatory self-isolation when returning to the UK from certain countries which may affect the consumer's ability to use a service*

during the self-isolation period (provided that the requirement to self-isolate was imposed after the consumer had entered into the relevant contract and was not reasonably anticipated by the consumer)

What is notably absent here is any mention of advisory self-isolation at the request of NHS track and trace – this is not a legal requirement. A “Public Health Officer” is specifically designated as such or registered as a public health consultant. There are currently 1,127 such consultants on the register. This adds further opacity as, to know whether a requirement to self-isolate is mandatory or not, and therefore whether a refund is mandatory or not, you have to know if the person giving the instruction is registered or designated by the Secretary of State under the Coronavirus Act 2020!! Not all that easy! Generally, the Track and Trace Contact tracers won't be able to impose house arrest on a mandatory basis, only to give advice.

The difficult issue for holiday home operators and agents is where taking the holiday is contrary to government guidance but not contrary to law. HHA has had calls on this situation from consumers where a booking was made for more than two households to holiday together. This is not illegal for either the owner or the holidaymakers but is against government guidance.

One can imagine the squirming staff of the CMA writing this, trying to avoid upsetting the government whilst also not misleading people:

The government has issued guidance in place of or in addition to lockdown laws. As these are guidance and not law,

whether a consumer is entitled to a refund will vary according to the specific circumstances.

For example, if a package holiday is cancelled in light of Foreign and Commonwealth Office advice against travel to the relevant country, there are specific protections which mean that consumers should be entitled to a full refund.

In other situations, it will not always be the case that a full refund is due because government guidance does not create legal restrictions and will not necessarily mean that a contract cannot be performed.

But even where that is the case, it is important for businesses and consumers to follow government guidance and it is the CMA's view that businesses should treat their customers fairly and responsibly, including trying to find a mutually acceptable solution.

How does that translate into plain speaking? It means that if it is legal for your customer to take the planned holiday you don't have to give them a refund, whatever the government guidance may say, but hey, pretty please, try to be nice to people!

The CMA's head of their Covid taskforce put it more diplomatically:

our message to businesses is that they should treat their customers fairly and responsibly - including trying to find a mutually acceptable solution.

Which rather passes the buck back to businesses who may have to cope with customers who, understandably, do not go to bed reading the Health Protection

(Coronavirus Restrictions) (No 3) Regulations 2020 or for that matter the government guidance, and who don't understand the important differences between them.

But, don't do anything that might be seen as pressurising the consumer lest that be seen as an unfair practice.

The HHA wrote to the CMA some time back – without reply – asking for clarification in this area and the statement issued on 28th August goes quite a long way towards answering our concerns and creating greater clarity.

Gas Safety Week

Gas Safety Week is 14th-20th September this year.



In the run-up to the week, the HSE has reminded owners who rely on liquid petroleum gas that there are potential dangers of using LPG regulators without over pressure protection. Failure of these regulators can allow dangerously high pressure gas to reach appliances which are not capable of containing it. Regulators over 10 years old, or where the age is uncertain, should be replaced; it is recommended that the

replacement regulator should incorporate over pressure protection.

It is also important that regulators are positioned so that water cannot enter through the vent hole.



The week is fronted by Doug, above so we have included an image of Doug as he's clearly a fun person.

Gas Safety Week is an annual safety week to raise awareness of gas safety and the importance of taking care of your gas appliances. It is coordinated by Gas Safe Register, the official list of gas engineers who are legally allowed to work on gas.

Badly fitted and poorly serviced gas appliances can cause gas leaks, fires, explosions and carbon monoxide (CO) poisoning. CO is a highly poisonous gas that can kill quickly with no warning, as you cannot see it, taste it or smell it.

Landlords are legally responsible for the safety of their tenants. Holiday home owners don't have tenants but they still need to make the same arrangements for safe gas. Owners must make sure

maintenance and annual safety checks on gas appliances are carried out by a Gas Safe registered engineer.

Owners must make sure:

- Gas pipework, appliances and flues provided for tenants are maintained in a safe condition.
- All gas appliances and flues provided for guests' use have an annual safety check. You can set a free email and/or text reminder so you don't forget, visit StayGasSafe.co.uk.
- You keep a copy of the Gas Safety Record until two further checks have taken place.
- Maintenance and annual safety checks are carried out by a qualified Gas Safe registered engineer.
- All gas equipment (including any appliance left by a previous tenant) is safe or otherwise removed before re-letting.

Before any gas work is carried out always check the engineer is qualified to carry out the work that needs doing e.g. natural gas, domestic boiler. You can find this information on the Gas Safe Register website or by checking the back of the engineer's Gas Safe ID card. A card looks like this:



Domestic	Gas	LPG	Non-Domestic	Gas	LPG
Pipework	31/03/21	31/03/21			
Cooker	31/03/21	31/03/21			
Fire	31/03/21	31/03/21			
Water Heater	31/03/21	31/03/21			
Gas Boiler	31/03/21	31/03/21			
Comb Analysis	31/03/21	31/03/21			

The Cardholder is deemed competent only in the categories of work identified by a date.

3456789

For more information and to find or check an engineer visit GasSafeRegister.co.uk.

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The HHA AGM

We know you have noticed that the HHA Annual General meeting has yet to take place. You know why, of course! Plans are being made for an online AGM on a date to be announced, so in preparation for that please brush up your Zoom skills!

We will also soon resume asking for subscription renewals to be paid, now that everyone has cash coming in from staycationers. And a warm welcome to the new members who have joined HHA during the lockdown and the aftermath – there have been quite a few!

Holidays in Local Lockdown Areas

The local lockdown areas currently do not include the most popular destinations for UK holidays although Manchester is a popular city-break destination in normal times.

The government has published guidance on what is permitted and what isn't and the main headline is that no two households should share a holiday home that is inside one of these areas. The exception is when the two households are linked households i.e. in a support bubble. (This is applicable when a single-adult household chooses one other household with which to be in a bubble – the two households are then treated as one!)

Whether this is legally enforceable is a moot point as holiday cottages are not mentioned specifically and it would require a court to determine whether a holiday cottage is a "private dwelling".

Unfortunately, because Statutory Instruments are being issued with such frequency and so little notice right now we cannot be sure what the legal position will be on this but currently there are no legally-binding restrictions on travel out of these local lockdown areas. It is prohibited for a person who resides in the local areas to gather with persons outside their household or a linked household outside the lockdown area, but this only applies if they gather in private dwellings. So again, we are up against the definition of a private dwelling. A private dwelling isn't a B and B or hotel, that's clear, and arguably a holiday home isn't a dwelling

at all, but this has not been tested in court. Some things however are clear:

- The local lockdowns only apply in England so if our Manchester friends cross into Wales they are no longer subject to the rules from back home – the laws of Wales apply.
- Holiday home owners have no legal duty to enforce the regulations – the onus is on the holidaymaker.

There is, however, updated government guidance on working safely that asks owners of holiday accommodation to bring the restrictions to the attention of people from local lockdown areas, and not to intentionally facilitate non-compliance with the guidance. It includes the warning:

Those not complying with these responsibilities may be at risk of the premises being closed.

In theory the premises could be closed by the local authority or the Secretary of State – they do have that power. This seems unlikely to happen.

Given the complexity of the situation, the grey areas, and the frequent changes, owners may want to rely on guests to know the local restrictions in their areas.

DCMS Wants to Hear from you!

DCMS is undertaking a second wave of their Coronavirus Impact survey in order to better understand the impact of the Coronavirus outbreak on organisations in the digital, culture, media, sport, gambling, telecoms, and tourism sectors and what needs to be done to support businesses. The survey should take around 10-20 minutes and the deadline

for responses to the survey will be at 23:59 GMT on 8th September 2020.

<https://tinyurl.com/hha01>

If a Guest Gets the Virus

The latest guidance is this:

If the guests has symptoms he/she must tell the owner/agent immediately and self-isolate in situ, and request a test. If the test is positive the person should go home as quickly and directly as possible but only by car, and of course the person should only drive the car if fit to do so.

If the person can't go home by car they should stay in the accommodation and self-isolate there. However, then the guidance says:

In most cases it will not be possible to self-isolate at your holiday accommodation. In these cases, you should make arrangements to travel home as safely as possible, while minimising the risk to others.

Only, if it is agreed with the accommodation provider can you extend your stay in order to self-isolate until you are well enough to travel. Unless otherwise provided for in the contractual terms of the booking, you will be expected to pay the costs of an extended stay in all but exceptional circumstances.

The exceptional circumstances include where the accommodation provider has failed to follow government guidance to create a covid-secure environment. That would, of course be a can of difficult hard-to-prove worms!