Unruly passengers and how to deal with them

Aviation Legal Update

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There are increasing reports of disruptive passengers, including celebrities, who have been stopped from boarding planes or arrested or cautioned as a result of their behaviour whilst aboard aircraft. The International Air Transport Association reports that in the period 2007-2015, there were over 49 thousand reported cases of unruly passenger incidents on board aircraft in flight.

So what constitutes disruptive behaviour and what action can airlines take to protect their staff and other passengers? This article takes a look at legalities behind the headlines.

International conventions

There is no one internationally agreed convention or guidance on dealing with unruly passengers. Passenger behaviour is subject to the law of the country the plane is registered in. However, international conventions set out the parameters within which national law is applied.

In respect of authority to deal with passengers and jurisdiction to prosecute unruly passengers, the Tokyo Convention 1963 (as amended by the Montreal Protocol 2014) makes clear, amongst other things that:

- The plane’s captain is in charge of the safety of the flight, and has the authority to decide how to deal with an unruly passenger, once the passenger is on board a flight
- Unruly behaviour includes, amongst other things, the threat of or actual physical assault, or refusal to follow safety-related instructions
- In addition to the State of registration of the aircraft, the State of the operator (if different) and the State of landing may exercise jurisdiction over offences and acts committed on board
- It is possible for a State to claim damages, in accordance with national law, from an unruly passenger who is disembarked

Whereas the Tokyo Convention 1963 as amended outlines authority and jurisdiction, the Montreal Convention 1971 sets out what constitutes an offence. Offences include an act of violence against a person on board and causing damage to the aircraft.

Domestic framework

Within the international framework, the United Kingdom expressly defines what constitutes unruly behaviour by defining a disruptive passenger. The UK Flight Safety Committee defines a disruptive passenger as any passenger who, on an aircraft, carries out any action or pursues a course of conduct which is unlawful according to United Kingdom legislation or which may amount to an offence under the Air Navigation Order.
Any offence that can be committed on the ground can also be committed in the air, and would be punishable in the same way. However, there are a number of offences that are specific to air travel and those are covered by the conventions, the Civil Aviation Authority rules and Air Navigation Order 2000. A summary of the rules is set out below.

An airline can lawfully refuse to allow a person on board if, amongst other things, the passenger is:

- Drunk or under the influence of drugs
- Has refused to allow a security check to be carried out on them or their baggage
- Has used threatening, abusive or insulting words towards ground staff, another passenger or a member of the crew of the aircraft
- Has behaved in a threatening, abusive, insulting or disorderly way towards a member of ground staff or a member of the crew of the aircraft
- Has put the safety of either the aircraft or any person in it in danger

In flight (from the moment when all an aircraft’s external doors are closed following embarkation until the moment when any door is opened for disembarkation), passengers must not:

- Be drunk
- Smoke
- Disobey a command given by the captain
- Act in a disruptive manner

If the captain deems behaviour disruptive, he/she has the right, together with the crew, to take measures they think reasonable to prevent the passenger continuing that behaviour. In extreme cases, where there is no other way, passengers may be physically restrained until the flight can make a safe landing. However, an airline remains liable under Article 17 of the Montreal Convention 1999, which makes an airline liable for the death or injury of a passenger, including disruptive or unruly passengers.

The usual course of action is to make the passenger leave the aircraft (if necessary under police escort), refusing to carry the passenger on the remaining parts of their journey and reporting the incident to relevant authorities with a view to prosecuting them for any offences that may have been committed. Offenders can face large fines and up to two years' imprisonment. Passengers may also be banned for life from travelling on the airline. Delta (for a pro-Donald Trump speech) and Jet2 (for drunk and aggressive behaviour causing a diversion) are two airlines to recently ban passengers.

**Practicalities and the way forward**

Drunkenness, demand for alcohol on board and the resulting disruptive behaviour is by far the greatest issue that affects airlines, their crew and ground staff. With the sharp increase in such behaviour, a number of airlines and connected services such as airport retailers and airport police have signed up to the UK Aviation Industry Code of Practice on Disruptive Passengers, taking a zero-tolerance approach to such behaviour. One of the elements of the code (reflecting the Tokyo Convention 1963) is recouping from passengers the costs resulting from their disruptive behaviour, including for diversions, damage to aircraft and delays, in the hope that this will be a disincentive to passengers from behaving badly.

Airline personnel are being trained on how to deal with abusive behaviour, and there are more calls to try to prevent these incidents. Some airlines have now banned the sale of alcohol on board before 8 am on morning flights and a review led by Lord Ahmad on the sale of alcohol at airports generally was announced in July 2016.

With so much awareness and attempts from nearly all parts of the air industry to curb the problem, perhaps we will start to hear less about disruptive behaviour in the future.

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