



Consultation on amendments to CAP1324 - the CAA's policy for ADR applicants and approved ADR entities

Consultation response by The Consumer Council

September 2020

1. Introduction

- 1.1 The Consumer Council is a non-departmental public body (NDPB) established through the General Consumer Council (Northern Ireland) Order 1984. Our principal statutory duty is to promote and safeguard the interests of consumers in Northern Ireland. The Consumer Council has specific statutory duties in relation to energy, postal services, transport, and water and sewerage. These include considering consumer complaints and enquiries, carrying out research, and educating and informing consumers.
- 1.2 Although not a designated ADR provider, The Consumer Council has been designated to handle passenger complaints made under Regulation (EC) No 1107/2010 (the Access to Air Travel Regulation) relating to an airport in Northern Ireland or a flight departing from an airport in Northern Ireland by the Civil Aviation (Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) Regulations 2007 (SI 2007/1895). The Consumer Council also handles complaints made under Regulation (EC) No 261/2004 concerning flight delays, cancellations and instances of denied boarding in and out of Northern Ireland.
- 1.3 The Consumer Council uses a set of eight core principles that are commonly used by consumer organisations for working out how particular issues or policies are likely to affect consumers. These are:



1.4 The Consumer Council welcomes the opportunity to respond to the “Consultation on amendments to CAP1324”.

2. Executive Summary

2.1 The Consumer Council supports the CAA objectives to improve the ADR process for consumers and also to encourage more airlines to join the scheme. We ask the CAA:

- In our unique role as passenger complaints representative for Northern Ireland we deal with the same issues and legislation as designated ADR providers. We therefore request that we are given access to the new ‘complex and novel’ complaints process.
- In line with the recommendation made by the Consumer Protection Partnership in its response to Aviation 2050 we would ask that the CAA undertake a review of ADR to ensure it is working in the best interests of consumers.
- Since 2015, The Consumer Council has facilitated the recovery of almost £900,000 in refunds and compensation. Currently we receive no funding from the CAA or the Department for Transport. We ask that our statutory role in assisting Northern Ireland consumers be acknowledged and The Consumer Council receive proportionate funding to grow and develop our representative and complaints role. We would welcome the opportunity to discuss this further with the CAA.

3 Feedback

Post decision review process

3.1 The CAA states the purpose of this review process would be to enable the ADR body to enhance its expertise in handling aviation consumer disputes rather than to overturn the decisions taken in individual cases. We suggest that the CAA introduce some provision within the process to ensure this is the case. This would promote the Consumer Principle of Fairness.

Customer Feedback /Surveys

3.2 Although the CAA has stated applicants need to submit details of how they will gain feedback from consumers using their ADR scheme, it only says it must include use of online surveys. The Consumer Council would like it noted that

not all travellers have access to the internet and so other methods of feedback should be included. This would promote the Consumer Principle of Access.

Complex and novel issues raised in complaints

- 3.3 We welcome the introduction of a process that seeks to help ADR bodies resolve complaints that raise complex and novel issues. From our experience dealing with airline complaints we are aware that the aviation industry occasionally throws up unusual issues that give rise to complaints and where guidance from the CAA would be welcome. In our unique role as passenger complaints representative for Northern Ireland we deal with the same issues and legislation as designated ADR providers. We therefore request that we are given access to the new 'complex and novel' complaints process to enable us to provide Northern Ireland consumers with the best service possible. This would promote the Consumer Principles of Representation and Redress.

Review of ADR

- 3.4 In its June 2019 consultation 'Aviation 2050 – the future of UK aviation' the Department for Transport proposed to review ADR to ensure that it is working in the interests of consumers. The Consumer Council is a member of the Consumer Protection Partnership (CPP), which in its response to that consultation supported a review of ADR to ensure it is working in the best interests of consumers. The CPP response stated that "this review should consider the type of complaints that make it to ADR given the airline should already have had the chance to resolve the issues. ADR should be a last resort and only for cases where there is a lack of clarity on the entitlement to redress for the consumer". We wish to take this opportunity to reiterate the need for this review of ADR. This would promote the Consumer Principles of Representation, Redress and Fairness.

The Consumer Council funding

- 3.5 Although we are not a designated ADR body, The Consumer Council deals with complaints from passengers in relation to Regulation EU 1107 and EC 261. During 2019-2020 The Consumer Council handled 268 Stage 2 Complaints on behalf of consumers who were due compensation for flights leaving and returning to NI airports. During this period we facilitated the return of £94,000 to those consumers. Since the COVID-19 Pandemic hit the aviation industry in

March 2020 we have facilitated the return of over £700,000 in delayed refunds to Northern Ireland consumers.

- 3.6 The Consumer Council works with airports to improve services for passengers, and is a statutory body required to sit on the three airport forums in Northern Ireland as prescribed in the Airports (Northern Ireland) Order 1994. We work with partner organisations and local media to promote awareness of passenger rights within Northern Ireland and in partnership with the three airports in Northern Ireland to conduct 'Access Audits', whereby we facilitate groups of passengers with a disability and reduced mobility on a tour of the airport facilities. In June 2019, we presented on this at the British-Irish Airports Expo 2019 conference in London. In addition, The Consumer Council produces information guides for passengers on their rights when services are delayed or cancelled, and for passengers travelling with a disability or reduced mobility.
- 3.7 Despite this, no funding is provided for these activities by either the CAA or the Department for Transport. The Consumer Council would therefore request, that the CAA considers funding The Consumer Council. This would promote the Consumer Principles of Representation, Redress Information.

4. Conclusion

- 4.1 The Consumer Council welcome the proposals put forward to encourage more airlines and airports to join the ADR scheme and become regulated ADR entities. We welcome the introduction of a complex and novel complaints category, which recognises that air travel is a complex commercial activity. We believe that ADR should be a last resort for consumers and only for cases where there is a lack of clarity on the entitlement to redress for the consumer. Finally, we wish to see the role of The Consumer Council in representing Northern Ireland aviation passengers recognised and funded by the CAA.

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