

## Transport Committee Inquiry – Call for Evidence

### Accessible Transport: Legal Obligations

#### CAA Consumer Panel response

##### *Background*

The CAA Consumer Panel is a non-statutory critical friend, giving expert advice to the Civil Aviation Authority (CAA) as policy is being developed, to ensure aviation consumer interests are central. We are a group of independent experts, who bring together deep consumer expertise and experience along with strategic thinking, applying these in a practical way to improve the experience for aviation passengers. Our role is to champion the interests of consumers, with vulnerability and accessibility in aviation being key areas of focus as set out in our new work programme.<sup>1</sup> In particular, we have worked with the CAA to develop and embed a better understanding of vulnerability across the breadth of its work and provide input via specialist accessibility groups to enhance fairness for consumers at risk of vulnerability and where accessibility issues occur. We therefore welcome this opportunity to provide input to the Transport Committee's inquiry on accessible transport.

The Transport Committee has invited written evidence on a number of questions. We have approached these questions through the lens of our role as the CAA's critical friend<sup>2</sup> and responded to those which are most relevant to aviation consumers.

##### *CAA Consumer Panel views*

**How effective is the current legislation aimed at ensuring accessible transport for all?**

**Do current legal obligations or guidance need to be strengthened?**

UK Regulation (EU) No 1107/2006 (the Regulation) is the key piece of legislation providing legal rights for the protection of and provision of assistance to disabled aviation passengers and persons with reduced mobility (PRMs) when travelling by air. The Regulation established rules to protect against discrimination and to ensure assistance and support is provided by placing separate obligations on airports and airlines.

Overall, we consider the Regulation has generally been effective in establishing the principle of assistance when travelling by air. There is also better awareness of aviation passengers' rights set out in the Regulation due to high-profile media reporting and the work of the CAA, Government and disability groups and charities.

Compliance with the Regulation has also improved in recent years, which in our view is largely driven by the CAA's airport accessibility framework<sup>3</sup> and its associated performance monitoring

<sup>1</sup> See link for further information – [Consumer Panel Work Programme](#).

<sup>2</sup> See link for further information – [Consumer Panel Terms of Reference](#).

<sup>3</sup> The CAA regulates airport accessibility through setting standards in co-operation with airports and assessing their performance against these standards in published reports. The framework is used to ensure airports with more than 150,000 passengers a year provide a minimum standard in terms of a

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and data collection, stakeholder engagement and inspections of airports. See annex below for further information on improvements to airport performance. We are also encouraged that the CAA is taking the initiative to consult on an airline accessibility framework (covering those aspects of assistance airlines are responsible for under the Regulation). The CAA is also undertaking an accessibility audit of airlines' websites and apps, which we hope will shine a light on a particularly important aspect of accessibility and incentivise better performance across the industry.

We also note that the CAA's most recent wave of the Aviation Consumer Survey found that disabled passengers are more likely than non-disabled passengers to say flying is improving (30% vs. 20%).<sup>4</sup> While this should be viewed in the broader context of the other findings in the Survey (referenced below) this appears to be a positive indicator.

Taken together, this suggests the Regulation has gone some way in making aviation more accessible for aviation passengers than was previously the case.

However, evidence suggests that the quality and consistency of the assistance provided varies significantly as demonstrated by high-profile media coverage in 2022 of some unacceptable service failings and as recently highlighted by the CAA in its interim airport accessibility report.<sup>5</sup> The latest wave of the CAA's Aviation Consumer Survey (undertaken in late 2022) also found:

- 21% of survey participants say they have a disability or health condition
- 7 in 10 of survey participants who have a disability said they require assistance when flying
- 58% of survey participants who have a disability said they have difficulty in accessing/using airports or flying

These findings suggest that a notable number of aviation consumers require assistance and have difficulty flying. This underlines the importance of ensuring a quality and consistent assistance service for all and addressing barriers in the aviation ecosystem that risk poor accessibility outcomes for consumers.

Some of these barriers relate to gaps and areas of ambiguity in legislation, policy and guidance; individual stakeholder policies; and the need for more joined-up industry cooperation and planning. We believe that addressing the following barriers could improve outcomes for passengers with accessibility needs:

- **Enforcement powers and mandated ADR**

In written and oral evidence to this committee in 2021<sup>6</sup> and more recently in response to DfT's 2022 consultation on aviation consumer policy reform<sup>7</sup>, we strongly advocated our long-standing

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timely and customer orientated assistance service and meet their obligations under UK Regulation (EU) No 1107/2006 - <https://www.caa.co.uk/passengers/prm/access-to-air-campaign/>.

<sup>4</sup> The CAA commissioned Savanta to conduct the eleventh wave of its UK Aviation Consumer Survey in 2022. 3,500 interviews were conducted for the research 3,000 of these being online and 500 conducted via telephone. The data is used by the CAA to develop a deeper understanding of UK consumers' flying behaviours and their attitudes towards the aviation industry - <https://www.caa.co.uk/Data-and-analysis/UK-aviation-market/Consumer-research/Analysis-reports/UK-Aviation-Consumer-Survey/>.

<sup>5</sup> See link for further information - <https://www.caa.co.uk/news/uk-civil-aviation-authority-calls-out-unacceptable-levels-of-airport-accessibility-performance-despite-improvements/>.

<sup>6</sup> See link for further information - <https://committees.parliament.uk/oralevidence/3027/html/>.

<sup>7</sup> See link for further information – [Consumer Panel response to DfT consultation](#).

position for the CAA to be provided with more effective enforcement powers and for Alternative Dispute Resolution (ADR) to be mandated in the aviation sector.

While we consider the CAA generally uses its limited existing enforcement powers well (including the use of reputational levers), legislative reform is needed to enable the CAA to deliver more effectively for consumers particularly for those with accessibility needs who can often be left in a more vulnerable position when things go wrong. We eagerly await legislative reform that strengthens the CAA's consumer enforcement powers and makes ADR mandatory in the aviation sector.

- **Wheelchairs and mobility equipment**

Loss or damage of equipment for passengers with reduced mobility not only means a significant financial loss but a loss of independence that can have far reaching consequences.

Currently, wheelchairs and mobility equipment are defined as baggage under the 1999 Montreal Convention, which limits the amount of compensation. The limits set by the Convention do not apply if a passenger has made a special declaration of interest stating the value of the baggage, although airlines may set their own limits. A special declaration may require payment of a supplementary fee. In those instances, the airline is liable for the amount declared.

As set out in our response to DfT's 2022 consultation on aviation consumer policy reform, we are concerned that many aspects of the special declaration arrangements place too much onus on the passenger and that there is an unrealistic expectation of the individual's ability to assess the value of their equipment. The high cost of specialist equipment means that many users make use of the various NHS or charity schemes available to obtain it, often paying only part of the cost. It is also quite likely that time has passed since it was purchased, making it difficult to easily obtain details of the cost. In many instances, only part of the equipment will be damaged, and it is unfair to expect consumers to know the cost of individual components such as headrests or control units. Moreover, any cost associated with access to air travel related to specific accessibility requirements should be viewed as discriminatory and we feel strongly that access to adequate redress should be free for passengers who rely on mobility aids.

We would also like to see a shift in emphasis to an approach that encourages appropriate treatment of mobility equipment by airlines and groundhandlers, as we feel they have a duty to take care of relevant equipment. Easier access to special declarations and an expectation that all costs will be met may of course provide a financial incentive to avoid damage. As part of the Government's plans for aviation consumer policy reform, consideration should be given to exploring further proposals that incentivise greater care in the carriage of mobility equipment on all flights and how such measures could apply internationally, even where international conventions appear to place a limit on what can be achieved.

We also note that damage to mobility equipment can be relatively minor. In these instances, access to free and timely repairs could be offered to minimise the impact and the Panel would encourage industry to implement a policy that allows for minor damage to be fixed, possibly even at the destination, to deliver immediate remedy. This could also include the provision of less specialist equipment on a temporary basis which could be easily achieved through local providers.

- **Accompanying seats next to passengers with accessibility needs**

The Regulation states that airlines should make “all reasonable efforts” to seat an accompanying person next to the passenger with accessibility needs but this is not mandatory.<sup>8</sup> We consider in certain circumstances (for example where there is a requirement for the passenger to be accompanied, where the accompanying person is a carer or a parent/legal guardian of a minor under sixteen) the reservation of an accompanying seat next to the travelling passenger should be free of charge.

- **Onerous and inaccessible assistance booking procedures on websites and apps**

We believe more could be done to address the discrepancy between the level of information that passengers are asked to provide and the assistance that is subsequently provided. The level of detail that is required at the booking stage can be onerous and daunting, especially for those with less experience of air travel. For equipment, for example, passengers are required to provide extensive details about the specifications, which can be difficult for some to obtain. Whilst we appreciate that details of batteries or elements related to the safety of baggage handlers are important, we feel that airlines could be more pragmatic and less prescriptive.

We also believe more could be done to make digital platforms more accessible and inclusive. While the Regulation makes reference to airports and airlines making information available to passengers in “accessible formats”, we note that best practice guidelines on website accessibility<sup>9</sup> are not mandatory for aviation businesses as they are for public bodies. In this regard, we welcome the CAA’s proposed airline accessibility framework and airline website audit but consider this is a potential legislative gap and that a basic standard of digital accessibility should be required given that websites and apps are most passengers’ main point of access to the aviation market. We are also mindful of the impact digital exclusion can have on some passengers and consider aviation airports and airlines should provide alternative non-digital methods of booking special assistance.

- **Miscommunication and joint planning and cooperation between aviation stakeholders**

One of the main issues in the Regulation is the separation of roles between airport and airlines, which can lead to a “blame shifting” culture when things go wrong rather than a common focus on providing a seamless service to passengers centred around doing the right thing. There are still many instances of miscommunication between the businesses involved, complicated by different service providers using different definitions of the assistance needed even where internationally recognised codes are employed. In addition, overlapping and ambiguous responsibilities between airports and airlines can risk leaving passengers with accessibility needs unprotected in some areas as it’s not always clear who is responsible for what.

We welcome the CAA’s ongoing engagement and work<sup>10</sup> with industry to focus minds on better joint resilience and contingency planning<sup>11</sup> and communication to passengers<sup>12</sup> to avoid a repeat of the disruption experienced in 2022. We also welcome steps taken by the CAA to emphasise

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<sup>8</sup> See Annex II in the Regulation – See [link](#) for further information.

<sup>9</sup> See [link](#) for further information.

<sup>10</sup> See [link](#) for further information.

<sup>11</sup> See [link](#) for further information.

<sup>12</sup> See [link](#) for further information.

stakeholders' obligations for passengers with accessibility needs<sup>13</sup> (for whom disruption can have an exacerbated impact) and expect lessons to be learnt ahead of the 2023 peak periods.

We note the CAA's 13 March letter<sup>14</sup> to industry, which highlights instances of ineffective stakeholder operational cooperation. In particular, some airports considered that competition law concerns had resulted in insufficient sharing of information regarding airlines' groundhandling resourcing which, for example, prevented airports from planning effective stand allocation. Issues such as these can have a knock-on and exacerbated impact for passengers with accessibility needs, and we welcome further Government and CAA focus on improving industry cooperation and sharing appropriate operational information to ensure a seamless service is provided to passengers.

We also welcome DfT's 22-point plan<sup>15</sup> developed in response to the disruption in Summer 2022 and the development of an Aviation Passenger Charter<sup>16</sup> but consider more could be done to make future iterations of the charter more consumer friendly and accessible.

- **Appropriate deployment of special assistance**

In the context of an increase in special assistance requests in 2022, the Panel considers there is a significant problem with pre-notification of assistance requests and is concerned that services required by those with significant mobility impairments are frequently diverted to passengers who could be helped in a different way, for example through improved wayfinding assistance. Consideration should be given as to how best to distinguish between different types of assistance so resources can be deployed more appropriately.

- **Training and quality of assistance services**

The Regulation requires airlines and airports to ensure relevant personnel "have knowledge of how to meet the needs of persons having various disabilities or mobility impairments" and states that "disability-equality and disability-awareness training" should be provided and refreshed where appropriate. We welcome the CAA's guidance in this area<sup>17</sup> that expands on this, and consider it is particularly important that relevant personnel receive high-quality and best practice training on the handling and care of wheelchairs and mobility equipment.

- **Accessibility being built into aircraft and ground infrastructure**

We would like to see a stronger requirement for accessibility to be considered in aircraft design. In our response to DfT's 2022 consultation, we noted that fixed partitions used in business class on one airline made that entire class of travel inaccessible for less mobile passengers who need to be lifted into a seat. While we understand that adjustments will be made to rectify this, consideration of accessibility needs to be an integral part of the design phase to avoid such discrimination and the need to retrofit.

Building in accessibility early on is particularly important in the context of new innovative technologies such as Advanced Air Mobility (eVTOLs and vertiports). We consider this is a unique

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<sup>13</sup> See [link](#) for further information.

<sup>14</sup> See [link](#) or further information.

<sup>15</sup> See [link](#) for further information.

<sup>16</sup> See [link](#) for further information.

<sup>17</sup> See link to [CAP1411](#), chapter 3 for further information.

opportunity to ensure future transport design works for all consumers, including those with accessibility needs. We are pleased with the CAA's focus on embedding accessibility in its regulatory approach for new technology, including its engagement with innovators and planned guidance on the application of the Panel's Consumer Principles<sup>18</sup> in the context of Advanced Air Mobility. We are also engaging with the Law Commission on its 'Automation in Aviation' project<sup>19</sup> to ensure accessibility is factored into future legislative reform.

- **Opportunities for further guidance**

Further guidance would be welcomed around disabled passengers that need to be accompanied. There is no set guidance which stipulates who can travel independently and who needs to have somebody with them. Some passengers have independently travelled on the outward journey only to be told when they try to return that they need to have somebody with them. Guidance which sets out who needs to be accompanied and why would be very helpful.

**How can existing legislation be better enforced to make accessible transport a reality?**

**How effective are the relevant regulators at enforcing accessibility in transport? These include the Equality and Human Rights Commission, the Office of Rail and Road, Local Licensing Authorities [and the Civil Aviation Authority].**

As noted above, we consider the CAA generally uses its limited existing enforcement powers well and makes good use of reputational levers such as the airport accessibility framework to improve industry performance. We are pleased that the CAA is introducing a new airline accessibility framework which we hope will drive further improvements, and encourage the CAA to undertake further consumer research to better understand the experience of passengers with accessibility needs and make better use of existing data.

Where the CAA has taken more formal action under its existing powers (for example, it has imposed undertakings for systematic poor performance at two airports), this has led to improvements. However, if businesses do not comply with undertakings the only option available to the CAA is legal action through the courts which is slow and ineffective, and means that consumers could continue to face detriment for lengthy periods. Where other regulators can react swiftly with direct action against a licensee or by imposing fines, the CAA must ultimately prove non-compliance in court. We believe the CAA being given more effective enforcement powers will have a stronger deterrent effect and further improve industry performance.

We also believe that industry participation in ADR should be mandatory. If this is not possible, use of ADR could be incorporated into service level agreements and included by the CAA as a compliance indicator in its accessibility frameworks.

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<sup>18</sup> See link for further information – [Consumer Principles](#).

<sup>19</sup> See link for further information – [Law Commission project](#).

**How well do complaints and compensation processes work when things go wrong?**

Recent survey data suggests satisfaction with complaint handling in the aviation sector has declined. The latest wave of the CAA's Aviation Consumer Survey found that there is a significant decline in overall satisfaction with complaints handling, down from 71% in October 2021 to 52% in October 22, a 19 percentage point reduction. We feel that consideration should be given to whether the CAA could make better use of ADR data to drive performance improvements in respect of consumer complaints and satisfaction.

As noted above, we believe ADR should be mandatory for airlines and airports and that the reliance of passengers on the services and facilities provided by airport operators makes this move essential. Such a requirement would help focus the attention of airport operators by providing a clear path for escalating complaints, reducing the opportunity for capitulation and maintaining pressure where improvements are needed. Moreover, our view is that access to ADR should be available for all complaints about airlines and airports including those relating to the Regulation. A single ombudsman with a remit over airlines and airports would be able to address instances of unjustified blame-shifting, respond to the understandable confusion that consumers face when trying to establish who is responsible for their poor treatment or lack of assistance and provide an avenue for passengers who may want to complain but do not currently have an appropriate route to do so.

**What best practices should transport operators be following to improve their performance on access and inclusion for users?**

Aviation stakeholders should be required to follow high-quality, best practice guidance when training personnel who provide special assistance to passengers. We believe such training should focus on listening to and empowering consumers to decide what form of assistance they need, rather than a blanket approach being imposed on them, which can cause distress and anxiety.

We would also like to reiterate the importance of industry stakeholders undertaking joint contingency planning, with a particular focus on those passengers with accessibility needs for whom disruption or delay can have an exacerbated impact. For example, where special assistance support is delayed for transfer passengers who have disembarked an aircraft, contingency measures should be in place so they do not end up missing their connecting flight.

**How effective is the Government's Inclusive Transport Strategy, and how well does it influence decision-making across transport policy? How could it be improved?**

We consider more could have been done to promote and embed the Government's Inclusive Transport Strategy, and that aviation did not appear to be a key area of focus compared to other modes of transport. In future iterations of the strategy, we suggest there is a greater focus on aviation given how many consumers rely on this mode of transport, especially in respect of regional connectivity and in remote areas, and the severity of the impact of a failure in service on vulnerable passengers, as well as its interactions and touch points with other modes of transport such as rail and car.

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**Annex** - We would like to draw the Transport Committee’s attention to the CAA’s recent airport accessibility framework reports, which provide evidence on recent accessibility performance and areas of improvement. Please see following links:

- <https://www.caa.co.uk/news/accessibility-progress-at-uk-airports/>
- <https://publicapps.caa.co.uk/docs/33/CAA%20Airport%20Accessibility%20Interim%20report%20CAP2491.pdf>
- <https://www.caa.co.uk/passengers/prm/access-to-air-campaign/>

We would also like to highlight analysis from the CAA’s airport accessibility reports that demonstrate how performance across airports has improved since the framework was introduced five years ago.

**2016/17 rankings**  
See [link](#) to 2016/17 report

**2019/20 rankings**  
See [link](#) to 2019/20 report

