

# **HEATHROW CONSULTATION AND INFORMATION PROTOCOL**

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***Civil Aviation Authority  
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# Introduction

1. This Consultation and Information Protocol is a statement which sets out the arrangements for consultation between Heathrow Airport Limited (HAL) and the Heathrow airline community ('the Heathrow airlines') concerning the development of the airport and the information that should reasonably be provided during such consultation. HAL agrees to use its best endeavours to conform to the processes for consultation and information provision that are set out in this protocol.

## Purpose<sup>1</sup>

2. HAL recognises that consultation with airlines on its proposals for the development of Heathrow is critical to ensure its plans are both fully understood by airlines and informed by their knowledge and requirements. This revised protocol will replace Annex G of the CAA's March 2008 price control decision and to fulfil three objectives to remedy the findings of the CC's market investigation report:
  - to ensure that the views of Heathrow airlines are sought on all aspects of the airport development programme which have the potential to affect their competitiveness, including operational efficiency, level of customer service and operating costs;
  - to ensure that Heathrow airlines are not at an information disadvantage when providing views to HAL on the suitability of any capex project proposed; and
  - to ensure that the views of Heathrow airlines are reasonably taken into account by HAL in deciding to pursue capex projects.
3. This protocol sets out the consultation arrangements that will apply during Q5 as well as development-related issues that will need to be discussed in preparation for future price control periods.
4. Consultation on airport development takes place within and is aligned to the broader context of consultation, typically on the elements covered by the constructive engagement process used to inform the Q5 regulatory review. Separate arrangements exist to support consultation and information provision on other issues, such as Non-Regulated Charges and Service Quality. In addition there are currently three independent protocols that govern consultation and information provision, namely:
  - combined check-in and CUSS Commercial Protocol;
  - Baggage Protocol; and

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<sup>1</sup> These objectives were set out by the CC in their note "Guidance on the CC's assessment of the consultation protocol between BAA and the Heathrow airlines."

- Principles for Rent Assimilation Heathrow wide.
5. Annex 3 provides an overview of the wider consultation arrangements between HAL and airlines at Heathrow.

**Overall Scope of this protocol**

6. Section I of this protocol addresses consultation and information on an overall Strategic Business Plan, incorporating the masterplan, landuse plan and capital investment plan.
7. Section II addresses consultation and information on individual projects.
8. Section III of the protocol addresses other measures necessary to support the consultation process, including:
  - Annex 1 a change control process;
  - Annex 2 post project review arrangements;
  - Annex 3 confidentiality arrangements;
  - Annex 4 a dispute resolution process; and
  - Annex 5 an example of equitable treatment metrics.
9. This version of the protocol does not attempt to set out the arrangements for the wider framework of airport/airline relations, including “Constructive engagement”.

# Section I

## Consultation and information on the Strategic Business Plan

10. The Strategic Business Plan is a document published annually providing a long term (10 year); medium term (5 year) and short term (1 year) description of HAL's vision, strategic goals and capital investment plans. The document will first be published in draft and will then be finalised after consultation. Matters related to the consultation process are set out in Section III.
11. The Strategic Business Plan will include or update:
  - the airport masterplan;
  - the long-term land use plan; and
  - the capital investment plan (CIP).
12. The Strategic Business Plan will form the foundation for discussion about long-term plans, day-to-day operations as well as capital expenditure decisions. Specific commercial information such as board papers and internal operational plans will not be included but all key elements of the airport's business plan will be described.

## Airport Masterplan

13. The airport will produce and maintain a Master Plan document in consultation with airlines. The timing of this document will depend on Government airport policy consultations/decisions and on the need to keep the overall vision for the airport up to date. Updates will also be necessary to deal with strategic aspects (such as scope and timing) of major developments left open in a previous version. Consultations on the airport's development strategy and also on the necessity and scope of specific projects need to proceed in the confidence that the proposals are aligned with the overall airport Master Plan. If the masterplan is not up to date at the time the SBP is produced, any differences between the masterplan and the airport's current vision/plans or current Government policy shall be described.

## Long-term land use plan

14. The SBP will include a long-term land use plan, highlighting the infrastructure to be delivered across the airport campus by the investment proposals (at a level of granularity that permits informed discussion) which is likely to be relevant to airlines' consideration of the CIP. The long term land use plan will provide a view on how best to use the land well into the future, and from which the incremental infrastructure plans (next 5 to 10 years), both above and below the surface, can be considered and shown to align with the long term land use plan within the context of the current Masterplan.

15. The long-term land use plan should include information on proposed asset disposals. The consultation arrangements for asset disposals are set out below at paragraph [24]. The plan will also identify and explain any changes from the previous version of the plan.

### **The Capital Investment Plan**

16. Effective consultation will require the provision by HAL of information within a capital planning document known as the CIP covering a period of at least ten years. Published annually, the CIP is a key part of the SBP around which consultation on planned capital expenditure takes place. The CIP will provide information to airlines on the airport's development plan<sup>2</sup>, explain how planned expenditure fits in with the overall development plan set out in other parts of the SBP, and link specific projects to overall development activities.

### **The principal business drivers behind the airport's Strategic Business Plan**

17. The SBP will include an analysis of the airport's strengths, weaknesses, opportunities and threats together with its strategic vision and a plan of how it intends to achieve this over the long, medium and short term. The SBP would cover the airport's growth prospects, key performance indicators, how it expects the business to change, including customer and competitor changes, identification of new market opportunities and any material constraints. The scope and timing of major projects shall be set out to show how the airport will achieve its strategic vision and what alternative options for delivering the operational and commercial outcomes have been considered. The plan will provide top line forecast data and more specific information around airport operations and capacities. It must include a degree of granularity such as the relationship of the development to peak and off-peak demand, be disaggregated across assets, and include information around choke points in airport operations.

### **The forecast demand for airport outputs for the duration of the plan**

18. This includes the level of demand for airport capacity and services, as well as the factors that are likely to drive demand, under one or more future scenarios developed following consultation with airlines, including scenarios that may be recommended formally by airlines at the Joint Steering Team (JST). Further, it should include detail to allow users to identify both the demand for particular facilities or services at the airport and information to demonstrate where capacity shortfalls might arise and where. This level of detail is important, as it will assist users to identify where there may be uncertainty or risk about future demand and to test the robustness of the plan. HAL shall also identify the principal factors that are expected to drive different categories of the demand.

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<sup>2</sup> Due to the recent change in government policy, HAL is currently redeveloping a policy compliant masterplan. Therefore the implementation will be as per the following timetable:

- Masterplan concluded 2 years before start of next Q (early 2012);
- Medium term plan concluded 1.5 years before start of Q (late 2012);
- Detailed Capital Plan (CIP) concluded 1 year before start of Q (April 2013); and
- HAL will still produce a strategic business plan on an annual basis.

In doing so, HAL shall consult with airlines on options for facilities the airport intends to supply, and the extent to which the different parts of the infrastructure (e.g. passenger areas, stands, baggage systems, runways and airfield facilities) would meet demand forecasts under the different scenarios. This shall provide users with a forecast of the extent to which the airport would be able to meet expected demand for outputs, and the implications of this for the quality of service that airlines and passengers receive at the airports. This analysis shall also quantify other benefits to be delivered by the plan. As with consultation on options for airport development, the discussion on specific capacities to be provided shall also encompass airlines' views on current and future operational processes, requirements and airline moves. This may involve discussions about airlines' future plans (e.g. for check-in, fleet, baggage).

### **The capacity the airport intends to provide to meet demand**

19. This includes the facilities the airport intends to supply and how these will meet forecast demand including a comparison of capacity and demand by airport facility. The airport shall also identify how different levels of demand will impact on service quality.

### **Options for development of the airport around the central scenario within the Strategic Business Plan**

20. High level options will be presented for the development of the airport. This includes details of cost, output trade-offs, the impact on user charges, airline costs (where possible), service quality and capacity associated with each option. It will include both top line data and more specific information such as different land use plans (described above). The user charges impact assessment shall be conducted on a per passenger basis, employing high level assumptions on incremental passenger numbers, costs and income associated with alternate options. These estimates will be subject to uncertainty, including regulatory uncertainty, and the airport shall state its assumptions, with reasons, so that airlines can understand the inherent risks and sensitivities. This shall include similar analyses of reasonable options formally requested by airlines at the JST. It should be clear how each option considered takes account of airline views on current and future operational/commercial processes including plans for check-in, fleet, baggage etc

### **The resourcing implications behind the Strategic Business Plan**

21. This includes estimated total costs of the plan, by year and by project (or project grouping for small projects), pricing implications for users (informed by the price control formula and any long term pricing policies laid out by the CAA) and identification of proposed changes to capital spend profiles compared with the amounts set out in the regulatory settlement. This shall state what major assumptions have been made, including timing of key projects, passenger forecasts and the expected costs and levels of any

operational disruption. Consultation on the total cost of the investment plan for future price control periods will also encompass consultation on the appropriate level of risk that should be incorporated into the cost of the programme, informed by the work on future scenarios. The SBP shall also provide airlines with project information, to an appropriate level of detail, on capital expenditure and the anticipated incremental impact upon the operating costs of both BAA and the airline community. The amount of cost detail will be related to the stage of the development process. For those projects that have reached a high level of definition, specific cost estimates and indications of benefits will be expected. For projects envisaged in the longer term more general capital cost provisions may be appropriate and, if so, this shall be stated. Specific requirements are set out in Section II. All costs shall be stated in prices consistent with the regulatory settlement and any adjustments (e.g. for RPI; construction price inflation) should also be set out.

### **The outputs that are expected from the SBP**

22. Section II sets out the information on outputs that is required for specified projects and this needs to be incorporated in the SBP. An assessment of outputs and benefits is also needed for the rest of the plan (ie smaller projects), grouped as appropriate, so that the overall outputs and benefits of the plan are justified against the costs and it is clear what will be delivered if the plan goes ahead. The information guidelines set out in Section II should be applied as far as possible.

### **Assumptions**

23. The Strategic Business Plan must include all key assumptions made by HAL, with reasons, so that the airlines can understand the inherent risks and sensitivities involved.

### **Asset disposals**

24. As noted in paragraph [15] above, the long-term land use plan shall also incorporate information on proposed asset disposals. HAL shall consult airlines before disposing of any of its land or buildings, whether through sale, partial sale, long lease or joint venture, including disposals from the airport company to any related companies. Consultation information will include the timing of the proposed disposal, potential impact on both current airport operations and on future airport development, and measures taken to protect future airport development (e.g. proposed buy back options and their terms). The airport will also consult users and the CAA on any subsequent disposal of assets which were formerly within the scope of HAL and which had been transferred out of HAL during the Q5 price control period to a related company. Where there may be reasonable doubt as to whether or not a particular asset does or does not fall within HAL's asset base, the airport will consult with airlines on its disposal in advance.

## **Status of the SBP provided for consultation**

25. The draft plan published for consultation will be HAL's plan and will therefore reflect HAL's interpretation of elements listed above. Airlines can then interrogate these interpretations and offer alternate perspectives before the final SBP is published. The airport will endeavour, wherever possible, to disclose information to enable airlines to evaluate development proposals. The consultation process is discussed further in section III below.
26. Any outstanding differences between airport operator and airlines about the plan or the consultation process can be addressed through the dispute resolution process described in Section III below.

## **Effective consultation and Equitable Treatment**

27. The success of this protocol relies on the effectiveness of the consultation process adopted by BAA and airlines. Engaging effectively with all airlines is the key to achieving equitable treatment.
28. The consultation process shall adhere to the following principles.
  - Informal processes are a normal part of any dialogue between the airport and airlines. HAL should not be discouraged from pursuing an ongoing informal dialogue with its users but it does need to remain fair and open;
  - HAL must communicate the timetable of meetings to airlines in a timely manner (at least two weeks notice) to enable the airlines to plan their attendance. HAL will provide airlines with the necessary information in a timely manner ahead of each formal meeting:
    - five working days for the provision of relevant documents does not appear unreasonable; and
    - in circumstances where the Airport Operators Committee (AOC) or other representative body requires feedback from its membership HAL should provide documents at least ten working days in advance of the meeting.
  - HAL shall ensure that the information provided enables every airline to understand the potential implications (direct or indirect) of what is to be discussed at the meeting for their operation;
  - HAL must provide agendas and produce minutes of each formal meeting:
    - HAL shall clearly log actions, areas of agreement and areas of disagreement; and
  - following consultation, HAL shall clearly articulate how it reached its intended decision, including the factors that were important in the decision making process and how it took account of airlines' views in

reaching a decision. The justification for the decision shall be provided to airlines and the CAA.

29. HAL is committed to a programme of airport development that does not unduly discriminate against any user or impede fair competition between airlines. Airlines have some ex post protection that ensures they are being treated equitably through the powers invested in the CAA through section 41 of the Airport Act. However, the onus is also on HAL to demonstrate to airlines that when it has considered major changes to the capital programme that it has considered the impact of the respective position of airlines and sought to minimize the impact. When considering the impact, HAL needs to ensure they have considered costs to airlines as well as the impact on service quality. This is best achieved by HAL consulting with airlines effectively before decisions are taken.
30. HAL will provide a set of metrics that can be used to establish the equitable treatment of airlines across the terminals at Heathrow (please refer to Annex 5 for example). These metrics should be agreed with airlines by November 2011. HAL shall publish performance against these on an annual basis.

## Section II

### Consultation and Information on specific projects

31. Consultation on selected individual projects/groups of projects/programmes will take place during the development of SBP. Consultation will also take place during the life of the project at the key “gateways” defined in BAA’s project development process. This section sets out the process for identifying the projects to be subjected to consultation; the information to be provided for each project; timing considerations; and the relationship to the Strategic Business Plan. Related information on the consultation process, including document logs, change control, confidentiality and dispute resolution, is set out in section III

### Projects covered

32. Consultation will concentrate on key projects or programmes of investment. HAL agrees to provide detailed project information as part of the consultation process with airlines, making clear what key assumptions have been made, including the timing of key projects. HAL agrees to provide detailed project information around the cost estimates of individual projects within the capital expenditure programme and the outputs that are expected from individual projects as set out in this section. The individual projects and programmes that will be subject to detailed consultation will be agreed by stakeholder programme boards or via the JST. These will, as a minimum, be those projects with triggers attached and should be selected after consideration has been given as to how best to utilise airline and airport resource to facilitate this consultation without compromising the delivery of the overall plan. These projects shall be subject to consultation to ensure that HAL provides detailed information on projects that make up the majority of the total capital expenditure programme.
33. HAL shall consult and seek agreement with airlines at the outset of the relevant regulatory period (and where necessary thereafter) on the projects that will be subject to detailed consultation and information disclosure, and on the appropriate level of information to be disclosed at each stage in the lifecycle of projects which extend over several years. Guidelines for defining projects to be subject to detailed consultation and information disclosure are attached at Annex 1.
34. HAL will also seek to accommodate all reasonable requests made by airlines to be consulted on individual projects or for information about the progress of individual projects. These requests should be made via the relevant programme board, and if agreement cannot be reached through this forum, the matter may be raised at JST.
35. For each project subject to detailed consultation, HAL will provide cost-benefit analyses of the capital investment options for both HAL and the airline community (to the extent that HAL is able to estimate the costs to the airlines)

and the steps taken to optimise the balance of costs and benefits. For any project, it should be clear how the benefits justify the costs.

36. For each project subject to detailed consultation, HAL will set out the anticipated benefits to HAL, the airlines and passengers, including:
- benefits that will be realised in terms of increased capacity, increased forecast passengers, improved service levels, statutory compliance etc (the outputs should be quantified wherever possible and provided on an incremental basis at a level of detail appropriate to the stage of the project);
  - operational improvements, which may involve discussions about future airline plans for check-in, fleet, baggage etc, and the level of flexibility to changes in forecasts;
  - the facilities which the airport intends to supply and the extent to which the different parts of the infrastructure (passenger areas, stands, baggage belts, runways and airfield facilities etc) will meet demand forecasts under the different scenarios. In the initial publication of a project in a CIP, and in advance of receiving airline feedback, the performance of a project will be demonstrated against the different scenarios anticipated by HAL; and
  - any commercial revenues which HAL anticipates the investment will generate, including not only commercial revenues accruing from the scheme but also a statement as to how much of this commercial revenue would be incremental, having regard to consequential impact on existing commercial income streams (recognising that income from new retail is not always additive). HAL will share this information with the appropriate airlines and/or their representative bodies subject to the confidentiality provisions set out in Section III.

## **Costs**

37. For each project subject to detailed consultation, HAL will provide statements of need and design requirements (as appropriate) upon which the projects are based, as well as information on the procurement strategy for the project.
38. HAL will provide for each project subject to detailed consultation, the anticipated costs to HAL, the airlines and passengers, including:
- the effect on airport charges;
  - the profile of the annual capital costs;
  - updated and auditable information showing how expenditure incurred to date relates to the latest anticipated costs of the projects;

- total capital expenditure (including the phasing) and the anticipated incremental impact upon the operating costs each year for HAL and (to the extent that HAL has such information at its disposal) the operating costs of airlines (subject to the confidentiality arrangements in Section III);
- an analysis of costs into base construction costs, risk allowances (broken down e.g. forex risk, general business risk and explained), on-costs (direct and indirect/overhead on-costs attributable to a project)<sup>3</sup> and any other provisions such as site-specific costs;
- an explanation of any positive or negative cost comparison with similar past projects and with external benchmarks; and
- specific details of alternatives considered and analysis of reasons for choosing the preferred option, including the operational impact to airlines.

### Timing

39. In order to assist the users' understanding, information on the timing of projects subject to detailed consultation shall be provided, to include:
- the planned budget in current and future years (and associated supporting information) for the replacement of life-expired assets;
  - the programme and project gateway approval dates, consistent with the projections of the timing of future capital expenditure provided in the CIP; and
  - information on anticipated asset lives associated with the development proposal.
40. The timing of detailed consultation should be prior to HAL moving a project from an outline description (exploration phase) to options development, which means that it would be prior to any option decision or construction design. In particular, HAL will begin consultation at the stage when a potential need for a project is identified, before solutions are considered, and that users should have a substantive input into the brief for any project subject to detailed consultation prior to consideration of options to meet an identified need. As noted above, the depth of information provided at each stage will need to reflect the point that each project has reached in its own lifecycle.
41. Consultation will be structured to support the key decision points in HAL's project process. For those projects subject to detailed consultation, HAL will ensure that airlines are consulted in a timely fashion at the relevant stages of the project process: (i) prior to BAA moving the project from brief description to options development, (ii) prior to option decision, and (iii) prior to

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<sup>3</sup> Both direct and indirect on-costs would be required to ensure airlines were aware of the full impact on aeronautical charges from all costs to be charged to a project and to allow assessment of the business case for the project.

construction design. Further details on project Gateways can be found in Annex 2.

42. The parties involved in this process will make best endeavours to ensure that their inputs to such consultation are timely and do not delay the overall timeliness of programme and project delivery. If airlines do not participate when invited and subsequently try to hold up or to reject the project proposals, it may be legitimate for HAL proceed (and document the reasons why) without airline agreement, in order to protect delivery for the wider user benefit.
43. Consultation on the selected projects will, over time, encompass the progression of the design and delivery of the project. Consultation should also focus on the utilisation of the risk allowance factored into the project cost. Review of risk monies is discussed in Section III.

#### **Relationship to Strategic Business Plan**

44. HAL will produce an auditable reconciliation of the detail provided to the airlines on individual projects to the total proposed capital investment set out in the Strategic Business Plan.

## **Section III**

### **Other measures necessary to support the consultation process**

#### **Master document log**

45. In order that both parties have a clear record of information that is shared, HAL shall create a master 'document log' setting out what information is available to the airlines in both the Strategic Business Plan and on specific projects, and shall offer to provide users all non-confidential, relevant project-specific information which it has in its possession (including, for example, where appropriate, consultants reports).

#### **Review of completed projects and risk monies**

46. For specified completed projects, there should be information on:
- lessons learned/stakeholder feedback on recently completed projects;
  - out-turn performance of projects against the outputs anticipated in previous plans; and
  - project evaluation, highlighting performance in terms of cost, infrastructure delivered and benefits realised (including, where relevant, operating cost efficiencies achieved and commercial revenue generated).
47. The drawdown, move between projects and cancellation of risk monies (including contingencies and on-costs) should be kept under review by JST. HAL will provide reports to show how risk money has been used and airlines will be consulted in advance of any significant use of risk monies.

#### **Changes to the CIP**

48. The parties acknowledge that the CIP acts as a basis for consultation only and does not represent a mandatory investment programme. The CIP produced at any one time will be subject to change as the external environment alters, as project information become more detailed or as operational issues become apparent. Best endeavours should be made to stick to the plan and changes should be proportionate, and the rationale for significant changes should be discussed with airlines before decisions are taken. These changes need to be made transparently and may involve difficult choices. All parties recognise that some changes to the plan are inevitable and prioritisation of the plan will be ongoing within a fixed level of expenditure within the quinquennium.
49. Where significant disagreements arise, reasonable efforts should be undertaken by all parties to resolve disputes. Depending on the significance of the matter in dispute this may involve the use of the Dispute Resolution Process established for the Q4 period.

50. An important part of each CIP document will be to provide airlines with an account of how the plan has changed from both previous versions and the plan that was anticipated in the Q5 price control. This will include an analysis of changes to actual and projected capital expenditure profiles for the full quinquennium compared to the previous CIP and compared to the capex spend profile set out in the regulatory settlement, showing separate sub totals for projects subject to triggers and projects not subject to triggers. There will also be an analysis of any trigger payments that have been or are expected to be paid. A change control log will be maintained to keep track of consultation on changes during the quinquennium.
51. HAL will produce information to provide adequate transparency on proposed changes. This information shall include, for projects subject to detailed consultation or for significant changes to the overall plan:
- the rationale for any (material) changes, which shall be discussed with airlines before decisions are taken;
  - the implications of any (material) change, including on benefits, costs and operational activities; and
  - details of any implications for triggers.
52. Minor modifications to the plan may be excluded from this process of transparency and consultation, unless they have significant effects on the overall investment programme and/or operation and development of the airport.

### **Confidentiality**

53. Some elements of the data provided by HAL under this protocol may need to be covered by a confidentiality agreement (and/or disclosed in a restricted manner, such as to the airlines directly affected). This could arise in relation to future commercial revenues, contractual negotiations, or legal/planning matters. In general information should be shared and HAL undertakes to use best endeavours to identify practical means by which information can be both shared appropriately as necessary and given adequate protection from wider release, where this may be contrary to HAL's or other parties' reasonable commercial interests. The CAA notes that there many examples of commercial arrangements where parties share confidential information, through for example, non disclosure agreements (NDA's). The CAA expects HAL to maximise its use of NDA's where it can. Where HAL believes disclosure is not possible even with these safeguards, HAL will provide its reasons to airlines. Both parties recognise the importance of an appointed consultation facilitator in this process. For the sake of clarity, the following are examples of material, or circumstances, when HAL might not be able to provide information owing to confidentiality issues:

- information relating to projects required to support the introduction/commercial interests of a specific airline or service provider new to the airport;
  - information relating to commercially sensitive discussions around the disposal of an asset;
  - human resource projects or tender information; and
  - information relating to a public inquiry or legal challenge.
54. The CAA will adjudicate where disagreements on information sharing arise. Where the parties cannot agree, the CAA may adjudicate in accordance with the process outlined in paragraph [63].

### **The consultation process and the role of consultation bodies**

55. The parties recognise that effective consultation can only be delivered with the active participation of both HAL and Heathrow airlines following the agreed process and timescales. Where airlines cannot provide inputs in time, the airport may make informed assumptions that can be adjusted through subsequent consultations if necessary. It may also be necessary to revise assumptions later. The parties should aim to ensure that any delays, which may arise, do not unduly jeopardise HAL's ability to deliver its investment programme or specific projects or the operational needs of airlines.
56. In certain circumstances there may be underlying business and commercial differences, which cannot necessarily be resolved through consultation. Therefore the protocol also sets out the process for dispute resolution, including the appointment of a consultation facilitator or adjudicator to allow resolution of difficult issues.
57. The CAA will use compliance with this consultation and information protocol as evidence to judge the effectiveness of consultation by HAL.
58. The Strategic Business Plan should form the basis of an effective consultation process, designed to provide airport facilities to best meet the current and future needs of airlines. Within this process, HAL shall ensure that the material described above is provided to airline users at the airport, and consulted on in an appropriate manner.
59. The JST and its related bodies will facilitate this process. These consultative bodies should agree membership and terms of reference supporting a structure of consultation that ensures a logical sequence of information flow is followed in order for the linkages between the different information requirements stated above to be understood. The current governance structure for consultation at Heathrow is set out in Annex 3.
60. An important part of the work of these consultative bodies will be to track progress against the plan, to review implementation issues such as airline

moves, and to act as a consultative forum for any proposed changes to the plan, for example changes to the scope, timing, costs or benefits of specific projects identified for consultation. These bodies should also provide the forum to discuss and agree any changes to the triggers identified for the Q5 price control period. Beyond the current price control period these bodies should also provide the consultative platform to agree future 'trigger' projects and the detailed definition of the associated milestones, which will be used to adjudicate whether or not the trigger has been successfully met.

61. Consultation should encompass the exchange of information and subsequent discussion between HAL and airlines with the objective of achieving agreement, where possible, within an appropriate timescale to enable the successful delivery of the plan and particular projects. HAL will develop a project plan that will show reasonable timescales for consultation, commensurate with project complexity. The plan will show the timing of key decisions needed to maintain project programme in line with the CIP. Both parties commit to endeavour to meet this timescale.
62. HAL and the airlines will seek to establish an effective basis for consultation. Nevertheless, both parties acknowledge that there may be outstanding disagreements between the parties on the scope, timing and substance of the consultation process. In such a situation, HAL and the airlines commit to working together to seek to resolve differences that impede effective consultation, and to establish a workable basis for future consultation, and cooperate with a consultation facilitator if one has been appointed.

### **Dispute resolution**

63. It is recognised that agreement may not always be achieved in the time available to progress the investments. With this in mind, either of the parties can request that the CAA act as an independent facilitator to facilitate consultation between HAL and the Heathrow airlines to reach a decision if one is needed. The parties agree to co-operate with the CAA in the resolution of disputes and other matters relating to consultation on airport development. The CAA may seek external expertise to assist it coming to a decision.
64. The role of the CAA will be defined by its powers under section 20 of the Civil Aviation Act 1982, but for the avoidance of doubt, any decision taken by the CAA would not be legally binding. The CAA is developing more detailed guidance on its role in resolving disputes on the basis that any dispute resolution process should be proportionate and effective. Guidance will be available on the CAA website. The CAA would expect anyone coming forward with a complaint to be able to demonstrate:
  - commercial negotiations with HAL have been exhausted including reasons why HAL's own dispute resolution process (Annex 4) has failed; and

- demonstrate that the impact of the decision is having a negative effect.
65. Where an unresolved disagreement resulted from a failure by any of the parties to act reasonably or to follow this protocol, the CAA could be expected to consider taking regulatory action such as:
- a change to this protocol during Q5;
  - continuing to highlight that the CAA will incorporate this type of evidence into the development of the appropriate regulatory regime in Q6;
  - issuing a notice under section 73 of the Airports Act requiring the provision of information to the CAA; and/or
  - if after investigating a complaint, the imposition of compliance order on HAL under section 48 of the Airports Act.
66. Alternatively, depending on the circumstances, an individual airline or group of airlines could use HAL's dispute resolution process, which is included as Annex 5, or any other regulatory or legal mechanisms that may be available. However, the intention of this protocol is to resolve disagreements and facilitate a consensus agreement wherever possible, based on legitimate commercial needs and the interests of passengers.
67. HAL and the airlines may also agree that they are content to set out their respective differences on a particular issue rather than attempt a resolution.

## **Annex 1 – Guidelines for identifying projects subject to detailed consultation**

The CAA expects HAL and airlines to agree guidelines for identifying projects subject to more detailed consultation by no later than November 2011. Subject to agreement by the CAA these will remain in effect for the duration of Q5.

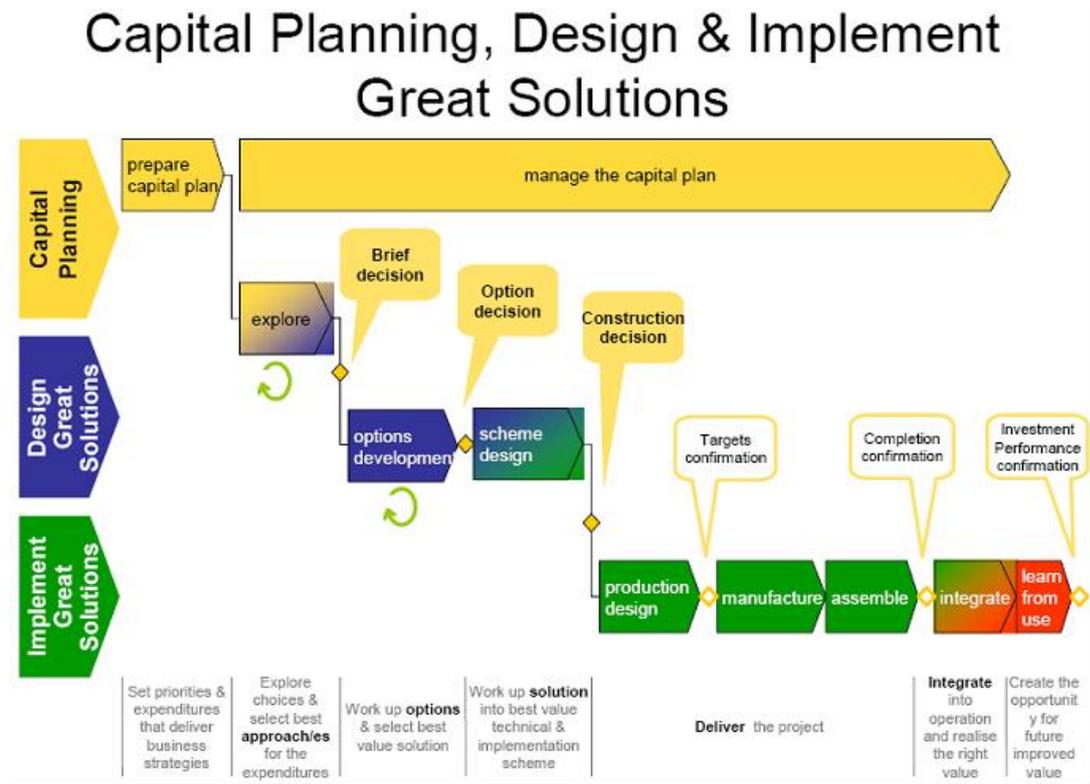
The types of issues the guidelines should cover include:

- scope and complexity:
  - projects that have bespoke design and delivery responses, or significant interfaces with other projects of significant time criticality would normally be subject to detailed consultation;
- airline stakeholder impact:
  - projects with significant impact on airlines (determined by operational or capacity impact during implementation, significant change management for stakeholders to use new facility, or significant increases in operating costs arising from the proposed project.) (+/-);
- strategic importance:
  - high to significant impact on HAL KPI's; and
- capital value:
  - Above £ [X]m to be determined by HAL and the airlines.

Other projects could be subject to detailed consultation by agreement.

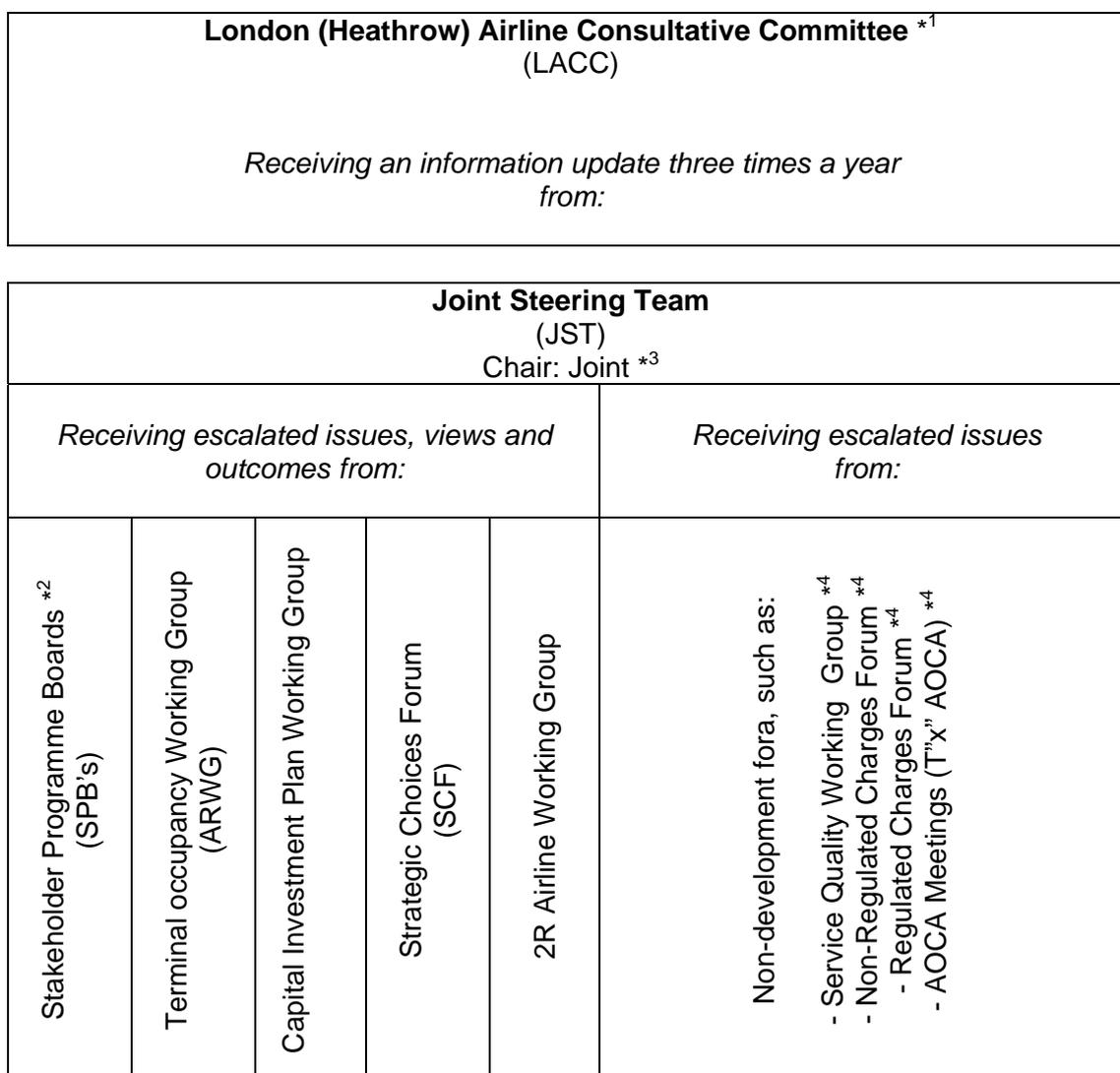
## Annex 2 – Project Gateways

The approval gateways in the current process are; Brief Decision, Option Decision, and Construction Decision. HAL will consult airlines in the event that intends to modify the gateways in the current project process.



### Annex 3 –Structure of Consultation Fora at Heathrow

The following diagram illustrates the structure of existing consultation fora at Heathrow.



**Notes:**

Chair : All meetings are chaired by HAL unless noted otherwise.

Secretariat : HAL acts as secretariat for all meetings unless noted otherwise

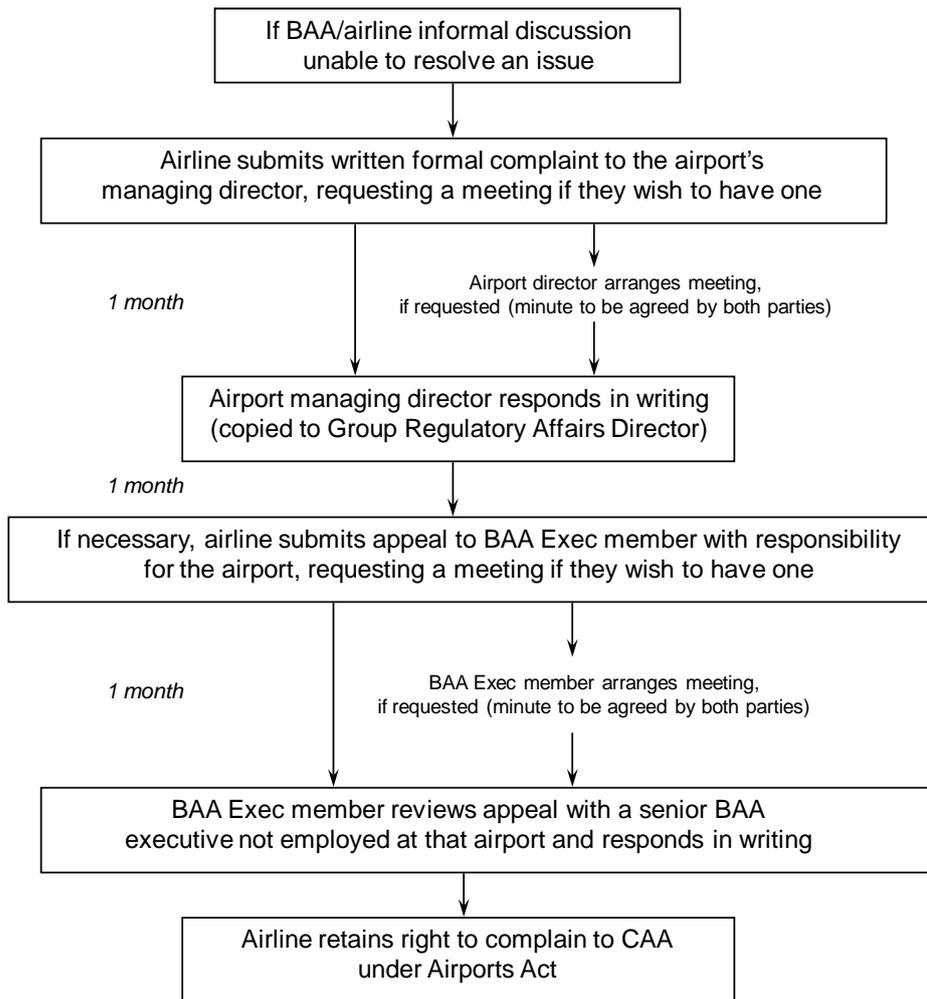
<sup>\*1</sup> : Information cascade and confirmation only. Not a decision making fora.

<sup>\*2</sup> : Stakeholder Programme Boards shall be formed around each programme grouping of current quinquennium capital investment.

<sup>\*3</sup> : Joint chairmanship means that two named individuals (one from each of HAL and Airline Community) act to run the meeting. If either, or an agreed deputy, is present then the meeting may proceed.

<sup>\*4</sup> : These fora are not focused on the development programmes and projects at the airport.

## Annex 4 – Dispute Resolution Process



## Annex 5 - Equitable Treatment Metrics (More may be added)

	<b>Metric</b>	<b>Terminal 5 (2011)</b>
<b>Check In</b>	area / dep bhr	3.0
	area / MPPA	448.1
	area / peak seats	3.2
<b>Check In Process</b> Desks + Bag Drops  Self Service	desk bag drops / dep bhr	30.1
	desk bag drops / MPPA	4.5
	desk bag drops / peak seats	31.7
	self service / dep bhr	21.6
	self service / MPPA	3.2
	self service / peak seats	22.8
<b>Reclaim</b>	area / arr bhr	1.8
	area / MPPA	249.3
	area / peak seats	1.5
<b>Reclaim Process</b>	belt length / arr bhr	1.4
	belt length / MPPA	19.3
	belt length / peak seats	1.2
	belt length / peak bags	92
<b>Arrivals Concourse</b>	int reunite area / arr bhr	0.2
	int reunite area / MPPA	30.3
	int reunite area / peak seats	1.8
	total area / arr bhr	1.4
	total area / MPPA	188.8
	total area / peak seats	1.2
<b>Pier Service</b> (Toastrack in brackets)	overall %	95%
	long haul %	98%
	short haul %	93%
<b>MCT – Passengers (min.)</b> (worst on-pier case)	intra terminal time	54
	intra alliance time	65
<b>MCT – Bags (min.)</b>	intra terminal	45
	intra alliance	93
<b>Car Parks</b>	spaces / MPPA	120