



London (Heathrow) Airline Consultative Committee  
Room 2044, D'Albiac House  
Cromer Road  
Heathrow Airport  
TW6 1SD  
Tel: +44 (0) 20 8757 3936  
Email: [lavers@iata.org](mailto:lavers@iata.org)



Heathrow AOC Limited  
Room 2040-2042, D'Albiac House,  
Cromer Road  
Heathrow Airport  
TW6 1SD  
Tel: +44 (0) 20 8745 4242  
Email: [Gensec@aoc-lhr.co.uk](mailto:Gensec@aoc-lhr.co.uk)

Sent to: [economicregulation@caa.co.uk](mailto:economicregulation@caa.co.uk)

### **LACC and AOC Response on ORC Protocol Principles (CAP 2524F)**

Thank you for the opportunity to respond to the above consultation.

This submission is made jointly by the London (Heathrow) Airline Consultative Committee (“LACC”) and Heathrow Airline Operators Committee (“AOC”), collectively referred as (the “Airline Community”) and sets out agreed principles that we believe the CAA’s policy should aim to address. It responds to the questions raised in order of the Consultation.

Please note individual airlines, groups and alliances may make their own submissions detailing their specific views on the CAA’s proposals.

#### **Summary:**

The ORC Protocol should describe how the Airline Community and HAL work in partnership to source, contract, monitor and control ORC costs to deliver the best value for money for the consumer and other users of the ORC services.

To deliver an ORC Protocol that encourages and sustains this partnership there should be the following key principles set by the CAA:

1. HAL and the Airline Community should be partners in the procurement process, jointly agreeing service levels and costs, with the acknowledgment that the contract is between HAL and the service provider, but that the ORC users have full visibility of the contract (subject to a signed NDA).
2. There should be full disclosure of cost information so that both parties fully understand what is driving any changes to ORC costs.
3. Data on ORC services performance should be shared equally – with the same data available to both parties and all Airline and Airline Community data requests to be fully complied with and in a timely manner.

**Response to CAP 2524F:**

Collaboration: The new protocols are to be jointly developed and owned by HAL and airlines (and/or non-airline ORC users) and must be binding on both parties. This is particularly important for the dispute resolution function that we describe below.

**AOC Response: We agree with this principle. We would also note that changes should be possible to the Protocol within a control period if agreed by both parties and the CAA.**

Consultation: The new protocols should adopt best practice in consultation and engagement, where HAL demonstrably takes into account the views of both airlines and non-airline ORC users. Licence Condition F.1 (Consultation and Governance conditions) contains the consultation requirements that HAL is expected to follow. F1 states there should be at least a 28 day consultation period, unless otherwise agreed. Parties should have sufficient information to take an informed view of the proposed changes. HAL should then to present to the CAA and ORC users a report setting out: revisions proposed, summary of feedback, details of how it has taken that feedback into account.

**AOC Response: We agree with this approach, with one key change. It should be a protocol requirement that any changes to ORCs (charges or service levels) or the method of ORC governance, proposed by HAL or the airline community, be jointly agreed between HAL and the airline community before that change is implemented. If agreement cannot be reached on the proposed change(s) then both parties have the right to escalate the dispute to the CAA.**

Governance: Have clear frameworks for governance groups and terms of reference (including governance committees and their respective roles) for decision making and processes, and should contain:

**AOC Response: Yes we agree. There should also be a requirement to agree to any changes to governance process and frequency of meetings and attendance with a formal annual review to ensure they are still fit for purpose.**

relevant rules, principles and processes for decision making and charge setting including year-end adjustments; and

**AOC Response: Yes we agree**

clear and unambiguous processes to support the above rules and principles for decision making.

**AOC Response: Yes we agree**

Transparency: Linked to governance above, the new ORC protocols should:

facilitate reasonable transparency of cost information so that ORC users understand the charges that they are asked to pay;

**AOC Response: We do not agree with the use of the term “reasonable”. It should instead read “full disclosure of cost information”. This will allow users to ask questions on costs to sufficient depth that they properly understand charges and the changes that have occurred to them. HAL should be able to provide “full disclosure” as these costs are a cost pass through and as such there should be no secrets between HAL and the airlines on these costs and the supplier contracts that drive them. Commercial confidentiality should also not be a valid reason for sharing all costs and cost driver information. Any contracts set up between HAL and a supplier should stipulate that commercial terms will be shared with the airlines representatives under an NDA.**

enable consultation of ORC service users on the scope of any ORC related procurement so that they have clear visibility of what is being purchased, and that services are fit for purpose; and

**AOC Response: Yes we agree, but this principle should go further and specify that ORC users are partners in the procurement process, jointly agreeing service levels and costs, with the acknowledgment that the contract is between HAL and the service provider, but that the ORC users must have full visibility of the contract (subject to a signed NDA).**

drive transparency and accountability by HAL over ORC service and performance levels.

**AOC Response: Yes we agree, but this principle should be more specific and state that there should be an agreed level of service and performance for each ORC category, and that the agreement can be reviewed and modified within the control period if agreed by both parties and the CAA.**

**We would also note evidence of a lack of data transparency by HAL, specifically on PRM data: Airlines have been requesting for months now for HAL to share data detailing: by flight number, by date, the no. of prenotification passengers, no. of non-prenotification passengers, passenger names and the time stamp when Wilson James received the prenotification message. This data is very important as it will allow the airlines to understand the drivers of non-prenotification and put in place actions to reduce this issue to the benefit of all PRM passengers.**

**We therefore believe it is important for the ORC Protocol Principles to include a clear requirement on HAL to provide all the data requested by airlines in a timely manner.**

Equivalence: Ensure that ‘fit for purpose’ ORC services are delivered to ORC users and that they are in the interest of all parties, in particular to consumers. ORC users, who pay for a particular service

should benefit from an appropriate level of service, including compensation when services do not meet an existing contractual standard.

**AOC Response: Yes we agree. It is important that HAL is held accountable for the level of service its contractors provides and provides an agreed level of compensation should that service standard be failed. It is important that HAL builds in this accountability to the contracts with the contractors it employs. If contracts are jointly negotiated and agreed with ORC users and there is full transparency of the final contract with ORC users (subject to signed NDA's) then this should be transparent to all and straight forward to implement. Any impacts to the overall costs of services to the consumer from included compensation clauses in the contracts can be understood, traded off, negotiated and agreed when the contract is being jointly agreed. We agree that there should be no financial "double jeopardy" for HAL and that any compensation mechanisms should be aligned with the OBR rebate scheme so this does not occur.**

Independent assurance: Build in periodic reviews, which should:

ensure ORC pricing is done on a reasonable basis adhering to ORC principles; and –

**AOC Response: We agree. We should also be specific on the frequency of the independent review, (we recommend every year) and that it should be by independent auditors contracted to either the CAA or the AOC and paid for by ORC charges.**

be timed to inform CAA regulatory price control review processes and decisions.

**AOC Response: If it is an annual review then this will match the CAA process.**

#### Dispute principles

Bearing all of the above in mind the high-level principles for a dispute resolution function should:

create a framework where the dispute resolution decision maker should be independent of either party raising a dispute;

**AOC Response: We agree, and the dispute decision maker should be the CAA. The CAA has the consumers best interests first and foremost and already has a good understanding of the issues and regulations governing ORCs. Employing an external entity other than the CAA, will only add cost to the consumer to no benefit.**

allow the dispute resolution decision maker to issue guidance on the process that he/she will follow with the process being quick and relatively inexpensive when compared to regulatory investigation/determination;

**AOC Response: We agree.**



facilitate evidence-based decisions (made to a 'fair and reasonable' standard of proof) which are binding on both parties;

**AOC Response: We agree.**

ensure an accessible, transparent, and proportionate process from raising a dispute, right through an enquiry/investigation process and the final decision;

**AOC Response: We agree.**

allow the dispute resolution decision maker (whether this is the CAA or another independent person) to refuse to hear certain disputes (for example, on the grounds of materiality and/or subject to certain deminimus levels);

**AOC Response: We agree.**

facilitate outcomes that are transparent so that lessons can be learned and repeated disputes on the same issue(s) avoided where possible;

**AOC Response: We agree decisions should be transparent**

enable the timely, efficient, and effective resolution of disputes backed by appropriate time limits (for example, within which disputes should be raised and logged with the dispute resolution scheme). 37.

**AOC Response: We agree -decisions should be timely and within pre-agreed time limits.**

We would also expect parties to have entered meaningful negotiations prior to raising a dispute and respond to information requests in a true and complete manner. There will be a need for the dispute resolution scheme to have rules on dismissing frivolous requests for disputes, and timelines within which to submit a dispute. 38.

**AOC Response: We agree. There should also be timelines to respond to information requests and a clear obligation on both parties to provide all information requested to the depth requested.**

We expect all parties to have taken reasonable steps to avoid disputes including demonstrating the involvement of senior management in negotiations prior to referring any dispute for resolution.

**AOC Response: We agree.**