

Consumer Panel minutes

12-4pm Thursday 7 February 2019

Attendees

Consumer Panel

Jenny Willott (JW)	Panel Chair
Helen Dolphin (HD)	
Walter Merricks (WM)	
Jacqueline Minor (JM)	
Claire Whyley (CW)	By conference call
Helen Swanbury (HS)	Panel secretariat

Invited guests

Tim Johnson (TJ)	CAA, CSP
Rebecca Roberts-Hughes (RRH)	CAA, CSP (Not present for item 5)
Chris Tingle (CT)	CAA, Chief Operating Officer (Item 3)
Richard Hallett (RH)	CAA, SSC (Item 3)
Maria Jodka (MJ)	CAA, SSC/PACT (Item 3)
Richard Moriarty (RM)	CAA, Chief Executive Officer (Item 4)
Graham French (GF)	CAA, CSP (Item 6)

Apologies

Carol Brennan (CB)
Trisha McAuley (TM)
David Thomas (DT)

Declaration of interests

None.

1. Chair's Update

JW opened and welcomed TJ, RRH and HS who will be acting as Consumer Panel Secretariat whilst Harriet Gamper is on maternity leave. HS introduced herself to the Panel with a brief overview of her experience working in Consumer Policy and Enforcement and previous policy positions.

JW has held regular catch up meetings with senior CAA staff, as well as the Chair of the Heathrow CCB. In November JW met with Dale Keller, the CEO of BAR-UK, which represents the majority of airlines operating to the UK.

JW also met the CAA Chair on 1 November and met with both the Chair and CEO on 15 January. They discussed the Government Aviation Strategy, the Panel's views on complaints and redress, and a possible expansion of the role of Transport Focus.

JW presented the Panel's Annual Report at the CAA Board meeting in December. The report was well received and was published after the meeting. The published version was circulated to the Panel's stakeholders (including previous Panel members). The Board were also interested in the Panel's views on mandating ADR and a single ADR provider, and in the Panel's work on consumer vulnerability.

2. Update from Panel Members

JW updated the Panel on the consumer vulnerability work undertaken by CW with Harriet Gamper, Anne-Marie Hopcroft (CSP) and Jen Milner (CMG), who met with staff from across the CAA to highlight the Panel's paper to the CAA on consumer vulnerability, gather views of CAA staff, and handover the project to the CAA to take forward.

HD advised the Panel that she and CB also attended a presentation given by Heathrow Airport to CAA staff and Panel members on research the airport has carried out around accessibility and vulnerability, and in particular the language used to talk about vulnerability both internally and externally.

In January, JM and WM attended a workshop hosted by the CAA Comms team aimed at rationalising the passenger information pages on the CAA website. JM commented that the CAA responded well to the Panel members contributions and that she supported the CAA's intention to rework the webpages from the perspective of the user.

Since the last Panel meeting, WM met with David Bott of Bott and Co, a claims management firm with a special interest in delay and cancellation compensation claims. WM reported that this was a useful meeting that provided insight into airline complaints handling and the process of pursuing redress. Walter also met with Resolver and the CEO of Aviation ADR, Dean Dunham, and attended a CAA seminar on allocated seating and new re-routing guidance published by the CAA, at which the challenges and merits of using alternative transport modes for re-routing was discussed.

WM also provided an update on the Airline Insolvency Review (AIR) reporting that although the review is focussed primarily on measures to ensure that the cost of airline insolvency does not fall solely to the Government it was agreed that an expectation of repatriation would be retained as a first assumption.

3. CAA strategic work

TJ provided an update on the implications of Brexit on the CAA. In the absence of any other information or arrangements, the CAA is preparing for a no deal Brexit and expects to be acting entirely independently of Europe following the UK's exit from the European Union. The CAA will not be a member of EASA and there are implications for bilateral agreements across a range of CAA functions, most significantly those concerning aircraft maintenance.

There was a discussion on the Statutory Instruments required to ensure that safety measures remain in place and reference to an access deal reached with the US.

TJ reassured the Panel that CAA is as prepared as it can be and is maintaining effective communication with industry. Much of the UK industry is preparing for a no-deal scenario, with many concentrating on issues of ownership and control, although TJ reported that some airlines have not yet taken action.

There are implications on CAA finance. TJ explained that Brexit has and will impact on the size of the UK sector which funds most of the CAA's work. He also explained that whilst income is likely to decrease, the range of issues that the CAA is responsible for remains significant and workload in some areas – specially the Shared Service Centre (SSC)– is increasing.

4. PACT Resilience

The Panel were joined by CAA's Chief Operating Officer CT and RH and MJ from the CAA's SCC, who presented a series of slides.

RH explained that his background is in customer services demonstrated the CAA's commitment to making its public facing functions more customer focused. MJ introduced herself as the manager of the PACT function and explained that her remit is to challenge how the CAA is performing in the area of passenger complaints.

Key comments/responses/questions on PACT performance and data:

- Complaints that are out of scope or not handled by PACT following contact from the passenger are recorded as 'out-of-scope' and 'closed', with a reason given such as 'out of jurisdiction' or 'cargo related'. No further information is held.
- When asked, MJ confirmed that PACT would like the legal power to make their decisions binding on businesses to ensure parity with ADR schemes and because colleagues are confident that they are providing the correct judgments which should be upheld.
- There is no data available on how often airlines do not adhere to PACT decisions and no information available on what weight PACT decisions have on legal cases taken. The CAA will consider how to capture this information going forward.
- Information gathered from complaints handling is not generally used as intelligence for enforcement. MJ explained that complaints escalated to the airline usually get resolved and that data held on non-compliance is shared with CAA colleagues in enforcement.
- WM suggested that the relatively high uphold rate indicates that industry is not good at accurately dealing with complaints in the first instance. MJ explained that many complaints concern areas where there is a genuine disagreement between the airline and passenger such as the extent to which a weather event was extraordinary circumstances (where the airline is not obliged to provide compensation).
- It was agreed that PACT may have a residual role even if ADR were made mandatory, and that there are challenges where PACT is required to take on a significant amount of additional complaints at short notice.

Key comments/responses/questions on the move of PACT from London to the SCC at Gatwick

- All queries to the CAA, in any format, will be handled by the SSC. Telephone routing technology ensures that calls made to the CAA are answered by the right colleague. RH confirmed that SSC are considering other IT solutions to help manage communications and workflow including AI and 'chat' functions.

- RH explained that the people who work in the SSC are the most diverse in the CAA and have a range of skills. When recruiting for PACT posts, RH explained that the CAA will be looking to build on this with good telephone skills.
- To further improve the experience for consumers, the team has a contract in place with the Customer Service Institute (CSI) to work on continued improvements. JW asked whether CSI would be involved in the content of letters from PACT to complainants. MJ acknowledged that this was an area where PACT could do better and agreed to consider this.
- The impact of Brexit on the workload of the SSC was discussed and MJ explained that the work of the SSC and of PACT are subject to major events which generate greater than usual complaints numbers but that the SSC model means that they can scope up to meet such demands.
- JW asked how the Consumer Panel can help with the transition. RH suggested that there was a need for a 'nudge' to ensure that the culture of SSC is genuinely more customer service focused going forward.

5. Chair and Chief Executive

RM passed on apologies from Dame Deirdre Hutton, who was absent due to sickness. The Panel wished her a quick recovery.

RM summarised the key themes for an upcoming strategic refresh:

- CAA must not be complacent – RM explained that the CAA's performance on safety is as good as it can be but that they must make sure that they learn from outside and accept that they could and should be open to challenge
- Delivering airspace modernisation and Heathrow third runway – these are the most significant infrastructure projects in the industry for a generation and must be effectively managed
- Empowering consumers – the CAA has done a lot in this area and need to be clear where to take the agenda next. RM identified this an area where the Consumer Panel input is valuable and cited the specific areas of focus as:
 - Tier 1 complaints handling to improve outcome for consumers
 - DfT's proposed Passenger Charter
 - Algorithmic pricing models/allocated seating (where computers are making decisions that go against people's expectations)
 - Ensuring the concept of fairness is reflected in the CAA's consumer regulation function
- Responding to changes in technology – RM identified drones, cyber technology and emerging digital tools as areas where the CAA may have a role and explained that the time it takes for legislative change to take effect means that the CAA must be preparing for the future now.

RM also identified general challenges and internal issues facing the CAA, including:

- Resource focused on Brexit related issues potentially distracting the CAA from other priorities and emerging issues
- Internal IT capabilities need to be maintained and improved
- CAA work culture – RM is keen to see better work across divisions and have a more diverse and inclusive workforce. RM also explained that colleague wellbeing is a priority.

- Financial stability – the CAA must be prepared for the impact of Brexit on income and manage the challenge of a significant pension fund.

A more detailed discussion on specific workstreams followed, during which RM responded to questions from Panel members. This covered:

- CAA Enforcement Powers – the DfT have accepted CAA arguments for a broader sweep of enforcement powers. This should allow for more effective interventions for breaches of existing consumer legislation and may support enforcement of items proposed for inclusion in the Passenger Charter. It was noted, however, that the Charter output is more likely to focus on passenger expectations and transparency of practices with sanctionable activity possibly following in the future.
- BEIS Consumer Forum – the CAA are members of the Consumer Forum but are not a key participant. RM agreed that there is a need for DfT and BEIS to be joined up as there are similarities between the initiatives in the Consumer Green Paper and the Aviation Green Paper.
- Post-Brexit Consumer Landscape – The Government says that Consumer law will not be diluted. Industry may lobby for Regulation 261 to be amended or removed (replaced, for example, with a scheme providing less compensation but paid more frequently) but the UK applying EU air passenger rights is likely to form part of wider Brexit negotiations.
- Drones – The use of drones near an airport in such a way as it becomes a ‘security incident’ will always be considered an extraordinary circumstance. The technological solutions available have potential risks and political/legal consequences but the CAA is encouraging the airports to find a solution and are considering how to mitigate the disruption when it occurs.
- Vulnerability – The CAA must balance the needs of all consumers against those of a sub-set when allocating resource to consumer issues but are open to a debate on what to do next in this area. The CAA would welcome a problem statement or definition that focuses on outcomes that would help target regulatory activity. The Consumer Panel work on vulnerability has been passed to CAA colleagues. It needs to go to the Board, who should be encouraged to adopt a vulnerability definition and framework.
- Heathrow Consumer Challenge Board – the consumer interest may not be obviously identifiable within the commercial agreements considered as part of the H7 price control. Improved consumer outcomes will be achieved by getting the infrastructure right.

RM closed by thanking the Panel and expressing how valuable their input is to the CAA.

6. Aviation Strategy

GF explained that he was developing the CAA response to the DfT Green Paper ‘Aviation 2050’ (also referred to as the Aviation Strategy) and will be working with the DfT on the next steps that will appear in a White Paper, which he expects to be published in the Autumn.

The main consumer proposal in the Aviation Strategy is the Passenger Charter. HS provided an overview of the proposed content of the charter and the CAA’s view that the Charter should concentrate on the issues that are most important to consumers, be outcome focused and prioritise measures that are meaningful and provable. A distinction must be made between what is best practice and what a legal right and must result in performance measures that can be communicated effectively. The CAA will be hosting a workshop to develop their thinking on the content of the Charter and will invite the Consumer Panel to attend.

Consumer Panel response to DfT Aviation Strategy

GF explained that the DfT would welcome a separate response from the Consumer Panel to provide a clear consumer perspective to counter the volume of industry responses that they are expecting. This would not be subject to CAA governance. The deadline for responses is 11 April 2019.

JW explained that the Panel's key messages for the DfT in their response is for:

- Mandatory ADR
- Free of charge ADR for all users
- Judgments from all second-tier complaints handlers to be binding

Achieving binding judgments for all tier two complaints handling, which would include PACT, may be as legally challenging as mandating ADR but is worth pursuing as a backstop solution if mandating is not possible.

The panel discussed the paper circulated in advance and agreed that a response should be drafted based on the content of Annex C 'high priority areas for Panel focus', with the following comments:

- Development of certified airworthy wheelchair standard – this aspiration is impractical and the DfT and CAA should concentrate on where they can be more effective and ensure basic improvements are prioritised
- Extending the role of Transport Focus – more detail is required to understand the intentions for Transport Focus in aviation and how their role would fit with the Consumer Panel's remit. HS offered to provide further information and it was suggested that Anthony Smith, CEO of Transport Focus (and previous Consumer Panel member) attend a future Panel meeting
- Review of slot allocation - there is a case to explore a review of slot allocation. It is not clear whether this should be done by the CAA or CMA. The review should consider how to incorporate the consumer interest when balancing the merits of allocating slots to incumbent airlines and new entrants.
- Increase consumer awareness of safety record of foreign carriers – the Panel is in favour of access to information and raising awareness that such safety assessments are made.
- The DfT should be encouraged to consider how best to ensure that the consumer voice is heard in the development of their policies, and to explain how they will capture what current and future consumers want or are willing to pay for and where there may be trade-offs.

Actions:

- HS to provide more information on the proposals around Transport Focus' involvement in aviation
- HS to draft Consumer Panel Response to Aviation Strategy

7. First Tier Complaints

WM stated that the paper circulated in advance of the meeting makes a strong case for the CAA to use its powers to gather information from industry on complaints and it was agreed that the Panel will formally ask the CAA to gather this information.

The Panel accepted the list included in the paper as the basis for the request with an additional request for details on internal policies on complaints handling.

It was noted that the CAA can only request information that businesses already hold, and it was agreed that the wording of the request was important to ensure that there was no possibility of an airline refusing to comply. It was therefore agreed that CAA OCG should be asked for advice on the wording. Pursuing this information request may also help identify and define any weakness in the CAA's information powers.

The Panel also discussed the Complaints Workshop taking place on Friday 8 February and comments were received on the slides to be presented by WM.

Actions:

- HS to ask OSG for advice on wording of information request
- Panel to formally request CAA use information duty to request information from industry on complaints handling

8. AOB

Potential agenda items for the May Panel meeting are: Developments with the passenger charter, horizon scanning (where the CAA has a lead on emerging issues), CAA Business Planning, Consumer Panel Annual Report, CAA Consumer Strategy. The panel will also consider inviting Anthony Smith, Transport Focus as a guest speaker and a possible guest to speak on the subject of wheelchair transport.