



Regulatory Policy Group
Group Director's Office

26 August 2011

Dear Colleague

Thank you for contributing to the recent CAA consultation on passenger representation and complaint handling. We received responses from a broad range of stakeholders.

Since publishing the consultation document, the CAA has held a series of meetings with other sector regulators and consumer panels, in addition to carrying out desk research, with a view to finding out more about how the panels are constituted and how we might learn from their experiences. This research, together with the responses to the consultation, has informed the CAA's emerging thinking on establishing a CAA consumer panel.

A number of stakeholders asked for more information about the possible structure of a consumer panel and the associated costs and benefits. We are now in a position to provide more information about the potential consumer panel. We would like to hear your views on the four options.

To support this, this document sets out further information in four annexes:

- Annex 1 - four options for a CAA consumer panel.
- Annex 2 - an assessment of the direct costs of each option in terms of remuneration and expenses of the Chair and members and other potential costs, such as independent research or media consultancy.
- Annex 3 - a summary of the principle costs and benefits.
- Annex 4 - a summary of the responses to the "consumer panel" part of the CAA consultation on air passenger representation and complaints handling.

The options

We remain of the view that the benefits of a Consumer Panel outweigh the costs that would result. However, the costs of a Consumer Panel can be mitigated by designing it in a way that focuses its activities on where it can have the most beneficial impacts. With this in mind, we currently envisage that the Panel would be inward-facing, acting as a "critical friend" to the CAA, providing independent advice on the consumer issues that we should be considering. We also want it to help set the CAA agenda and priorities.

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The options the CAA has developed are as follows:

- Option 1 - No panel.
- Option 2 - “Critical friend” with no independent voice – this would act primarily as a “sounding board” to an agenda set by CAA.
- Option 3 - “Critical friend” with internal independence – this would be primarily an inward facing panel offering expert advice but it would set its own agenda, and have an independent voice, including a limited ability to engage directly with the public.
- Option 4 – Independent consumer advocacy body – this would be a public facing, campaigning organisation that would act as both a “critical friend” to the CAA but also use its public profile and independent research to challenge the CAA on issues of consumer interest.

We currently prefer Option 3 because we think this best balances the need to manage the CAA's costs whilst also ensuring that the panel has a sufficiently credible independent voice to add value to existing CAA decision making. Importantly, we do not currently envisage that the panel would have a significant public-facing and campaigning role on consumer issues. In addition, its work would be focused primarily on commercial air passengers and would cover their interactions with the aviation market in the UK including booking a ticket, the airport experience, on-board the aircraft and making a complaint. We also see Option 2 and 4 as having some merit. Options 2 and 4 are similar to models adopted by other sector regulators: option 2 is similar to the model used by the Office of Rail Regulator's Forum of Consumer Experts; and option 4 is similar to the Communications Consumer Panel and the Financial Services Consumer Panel.

However, there is not a ‘one size fits all’ mechanism for consumer panels. The most appropriate mechanism depends upon the purpose (to educate, inform, seek feedback/input, challenge, etc) and the subject matter (policy issues, strategic issues, periodic review, etc). The nature and remit of the panel will also be likely to evolve over time. The options are therefore general and not specific – it may be that a combination of each might be more appropriate.

We welcome your views on the options set out at Annex 1 and the impact assessment at Annex 2. Please send any written comments to regulatorypolicy@caa.co.uk by Friday 23 September. If you have any initial comments or questions please contact James Fremantle on 020 7453 6731 or james.fremantle@caa.co.uk.

Yours sincerely



Iain Osborne

Options

The CAA has identified four options:

- Option 1 – Do not have a consumer panel
- Option 2 – Critical friend with no independent voice
- Option 3 – Critical friend with internal independence to CAA
- Option 4 – Independent consumer advocacy body

Option 1

The CAA does not set up a consumer panel. This option would reduce the level of passenger representation in relation to that provided by the Air Transport Users Council. This would imply that the benefits set out in options 2, 3 and 4 would be forgone but also that the associated costs would be avoided. This is the baseline option against which the other options are compared.

Option 2

Role and scope

This option would be for a small panel to provide expert advice on consumer issues in relation to some of the key responsibilities of the regulator – notably the price control process. It would be tasked with providing a consumer perspective to inform the CAA's regulatory activities. Its agenda would be set by the CAA. Its size and organisational structure would imply that the panel would be part of the CAA rather than being particularly independent – and would take the form of a sounding board or standing focus group for the CAA to use provide a valuable perspective on evolving thinking. It would not be a campaigning organisation and its public profile would be limited to publication of agendas and minutes on the CAA website. It would have no research budget but would be able to draw upon existing CAA data.

Structure and membership

The panel would have 3 to 7 members, be chaired by CAA or operate without a chair. Membership would generally be a mix of representatives from certain special interest groups (for example: consumer groups and airport consultative committees) and independent advocates. Members would be appointed by the CAA according to specific expertise and skills (for example: technical knowledge, consumer rights expertise).

The panel would meet around four times a year. Members would not be salaried but expenses would be paid (though sometimes expenses would be covered by the organisations they work for). There would not be a need for a dedicated secretariat and the associated additional costs would be funded within the existing charging structure, as the panel would be part of the CAA's regulatory decision-making process.

Other consumer panels

The model would be similar to the existing model at the Office of the Rail Regulator (ORR). The ORR's Forum of consumer experts is chaired currently by the ORR Chair, and soon to be by the Chief Executive. It provides expert advice on the periodic review process (price controls) and other key regulatory activities. Its members were recruited by invitation only for their breadth of expertise on the rail industry, consumer rights, market research and economics.

The Ofgem Consumer Challenge Group similarly was set up to ensure that the consumer view is fully considered during its price control review. As with the ORR it sees itself as a key contributor to price control process by helping the Ofgem regulatory team frame its proposals in a manner that could be understood by consumers. It also encourages Ofgem to publish papers regularly throughout the review and share them with consumers.

Option 3

Role and scope

Under this option, the panel would act as a “critical friend” to the CAA. It would provide expert advice to the CAA board but would have “internal independence” from it. It would be able to provide a consumer perspective on all aspects of the CAA's work, helping CAA the set its priorities in relation to its strategic focus on all areas of the CAA's remit that affect commercial air passengers.

Its main focus would be expected to be on how regulation affects passenger service, quality and value, and on compliance and enforcement activities in relation to consumer protection legislation. However, it would be able to set its own agenda and could consider broader passenger experience issues such as the complaints handling process and the quality and nature of advice given by CAA to consumers. The panel's relationship with the CAA will be underpinned by a Memorandum of Understanding with the Authority and its role and remit defined in its Terms of Reference, both of which would be publicly available.

Although the panel would not be a campaigning organisation with a substantial public profile, it would have scope to make public statements on its work and it would write a section in CAA's annual report. In addition, its meeting agendas and minutes would be available on the CAA website. It could use this public face to hold the CAA to account – for example, it could ask the CAA to explain why it might disagree with the panel's advice. But it would not formally respond to either CAA or other consultations.

The panel would have a modest research budget; but it would primarily draw upon existing available data, including CAA data on consumer complaints, punctuality statistics and surveys, using intelligence to identify thematic issues. It could also draw upon expertise from industry and other consumer organisations, and encourage CAA to undertake research.

Structure and membership

This option would be for a small to medium size (5 to 10 members) panel including an independent Chair. The chair and membership would act on an independent basis. Members would be recruited through an open process according to specific expertise and skills (for example: technical knowledge, consumer rights expertise). In order to attract people of sufficient calibre the chair would be paid a salary and both chair and members would have expenses reimbursed. It is estimated the chair would work 2 days a week, with members working 12 days a year – one day for each meeting in addition to approximately one day preparation for meetings and any other commitments. There would also be an option for the chair to task individual members to work on particular areas of interest, supported by a modest budget.

The panel would meet around six times a year. The CAA would provide a secretariat function, together with support from across all CAA groups. As the panel would be considered a key part of the regulatory process, it would be funded within the existing charging structure.

Other consumer panels

The Legal Services Consumer Panel has a statutory basis, a media profile and a small research budget. But it is not a campaigning organisation and acts as ‘critical friend’ to the Legal Services Board seeking to influence the Board from within from the earliest stages of policy thinking through to its development and implementation. It is independent of the Board, bolstered by statutory powers which allow it to make representations on any issue within its remit and to publish its advice or ask the Board to publish an explanation as to why it might reflect the Panels’ advice. It also responds to consultations independently to the Board.

However the Panel does not see itself as the only source of information from a consumer perspective and therefore it has a modest budget to commission research and surveys.

Option 4

Role and scope

This option would be for a public-facing, campaigning panel providing consumer input into the CAA’s work to help inform the regulator’s decision-making by raising specific issues of consumer interest. However, it would work to advise and challenge the CAA from the earliest stages of its policy development to ensure it take into account the consumer interest.

It would be set up on a statutory basis or with a Memorandum of Understanding with the CAA and would have a defined Terms of Reference. It would also be independent of the CAA. However, it would have a collaborative approach with the CAA to furthering consumer interests and despite its public facing role, its most important work would be in its role as a non public “critical friend” to the CAA.

The CAA would engage early and in full with the panel before consulting and engaging formally with stakeholders. In return the panel would ensure that the CAA has sufficient knowledge of its policies, statements and positions in advance of them reaching the public domain. Most of its work would be on activities that are regulated by the CAA, although it may also look at the impact on consumers of activities outside the CAA's remit. It might also formally respond to consultations from the CAA and other organisations.

It would be able to commission research and surveys to help inform its work and have a sizeable research budget. But it would also have access to CAA data. It would be available to provide comment to the media on all aspects of air travel. It would have its own website and publish an annual report.

Structure and membership

It would have a membership of around 10 members with an independent chair. It is estimated the chair would work 6 days a month, with members working 2 days a month – for meetings, preparation for meetings and any other commitments. The chair and members would be recruited through an open process and chosen according to specific expertise and skills (for example: technical knowledge, consumer rights expertise and aviation sector experience). In order to attract people of sufficient calibre, the members and chair would be paid a salary and have expenses reimbursed. Its public facing role would be likely to require a need to employ a part time media advisor. The panel would meet monthly. There would be a need for a dedicated secretariat of one person at least, together with significant input from CAA staff across all groups.

Other consumer panels

Both the Communications Consumer Panel and the Financial Services Consumer Panel operate on a statutory footing. Both also act independently of the regulator and have significant public profiles. Both, however, consider that their most important work is being involved in the regulatory process at an early stage. They also do not restrict their involvement to issues in the regulator's remit, often commenting on issues outside, but related to the remit.

Both panels have paid chairs and members contracted to work an agreed number of days each month which involves not just attendance at panel meetings but also to represent the panels at external meetings with the regulator or other organisations.

Their comparatively wider role and scope than that in the other panels is reflected in higher direct costs, with both panels costing significantly higher than other panels both in terms of direct costs and a greater reliance on the resources.

Impact assessment of direct costs

The following estimate of direct costs of a CAA Consumer Panel is based on an assumption of six meeting per year, with all meetings to be held at CAA House in London.

Option 1	Option 2		Option 3		Option 4	
No Panel			Paid Chair	£15,000 ¹	Paid Chair	£30,000 ²
					Paid Members ³	£51,400 ⁴
	Member ⁵ expenses	£5700 ⁶	Members' expenses	£8,000	Members' expenses	£23,900
					Paid media advisor/ other consultancy work	£24,000 ⁷
	Secretariat	£4,000 ⁸	Secretariat	£20,000 ⁹	Secretariat	£40,000 ¹⁰
					Research budget /publications	£100,000 ¹¹
	Sundries	£1,000 ¹²	Sundries	£1,000	Sundries	£1,000
	Total	£10,700		£44,000		£270,300

¹ Based on the equivalent salary of other consumer panel chairs working around 2 days a month.

² Based on the equivalent salary of other consumer panel chairs working around 6 days a month.

³ Based on 10 members.

⁴ Based on the equivalent salary of members of other panels at chair working 2 days a month.

⁵ Based on 5 members

⁶ Based on 7 members (including Chair) and an assumption of a geographical spread of members with some local to London and therefore only requiring travel costs and those further away requiring travel and subsistence (hotels, meals etc).

⁷ Based on consultancy rates working approx 0.5 days per week.

⁸ Based on 0.1 FTE (this estimate includes the full cost of the FTE, including both salary and overhead costs).

⁹ Based on 0.5 FTE (this estimate includes the full cost of the FTE, including both salary and overhead costs).

¹⁰ Based on 1 FTE (this estimate includes the full cost of the FTE, including both salary and overhead costs).

¹¹ Based on equivalent pro-rata budgets at Communications Consumer Panel and Financial Services Consumer Panel.

¹² Refreshments / lunches on meeting days and other sundries.

Summary of principal costs and benefits

	Option 1	Option 2	Option 3	Option 4
Direct costs	None	£10,700	£44,000	£270,300
Indirect costs	None	<ul style="list-style-type: none"> Minimal secretariat support for meeting preparations. Additional resources of existing CAA staff on an ad hoc basis. 	<ul style="list-style-type: none"> Dedicated secretariat staff (approx 0.5 FTE). Additional resources from existing CAA staff on an ad hoc basis. 	<ul style="list-style-type: none"> Dedicated secretariat staff (approx 1 FTE) Additional resources from existing CAA staff on an ad hoc basis.
Benefits	No additional costs	<ul style="list-style-type: none"> Valuable consumer perspective on evolving thinking. Give a passenger perspective in the periodic review process (price controls) and other key regulatory activities. Ability to focus expert advice on particular areas (e.g. price control reviews). No formal reporting structure gives flexibility to add value as and when required. Members appointed according to technical knowledge and skills. Low cost. 	<ul style="list-style-type: none"> Valuable consumer perspective on evolving thinking Credible independent voice. Sets its own agenda. Help CAA to set its priorities. Improve CAA decision making. Evidence based advice through access to CAA data. Consider broader passenger experience issues. Paid chair will potentially improve quality of membership and allow chair and members to work on projects outside meeting cycle. Independence of members from special interests. Option for members to work / have responsibility for particular areas of interest (e.g. vulnerable consumers). Relatively low cost. 	<ul style="list-style-type: none"> High quality evidence-based advice through targeted consumer research. Ability to use public profile to influence CAA decision making and challenge CAA policy. Ability to undertake substantial proactive work to push an issue up the regulatory or policy agenda or seek a specific change in policy. Independence of members from special interests. Paid chair and members will potentially improve quality of membership and allow chair and members to work on projects outside the meeting cycle.

Summary of responses to questions on CAA consumer panel of CAA Consultation on passenger representation and complaints handling

We received responses from 22 organisations, including those representing airlines, airports, tour operators and consumers and two responses from individuals. Non-confidential, written responses are available from the CAA's website.

We received responses from:

Aberdeen Airport Consultative Committee

ABTA

Airport Operators Association

Board of Airline Representatives

British Air Transport Association

Consumer Council for Northern Ireland

Consumer Focus

Mr John Cox

Mr Neville Duncan

Gatwick Airport

Gatwick Airport Consultative Committee

Heathrow Airlines Operating Committee

Heathrow Airport Limited

Heathrow Airport Consultative Committee

London Luton Airport Consultative Committee

Manchester Airport Consultative Committee

Thomas Cook

TUI

TravelWatch Northwest

Tyneside Consumer Group

UK Airports Consultative Committee Liaison Group

United Airlines

Virgin Atlantic

Which?

The comments covered a wide range of issues in response to the questions posed in the consultation document. We have not attempted to capture all the detail in this summary, but instead have outlined the main themes in the responses we received.

Q: Do you agree with the proposed role of the CAA Consumer Panel?

The respondents broadly agreed with the role as set out in the document – they agreed the panel should act as a “critical friend” to the CAA and that it should have an independent voice. A number also suggested it was important that the panel was able to set its own agenda. However, some stakeholders were concerned that the work of the panel might duplicate the work of other parts of the CAA and other organisations such as airport consultative committees (ACCs).

There were differing views on whether the panel should be public facing. A number of stakeholders, in particular consumer organisations and ACCs, considered that the panel should have a public profile in order to reassert the independence of its advice. This should include, at the very least, the publication of an annual report of its activities and its meeting agendas on the CAA website. But respondents generally agreed that the panel should not have a campaigning role.

Q: What are your views on the proposed scope of the CAA Consumer Panel's work?

The respondents broadly agreed that the panel should provide a consumer perspective on all aspects of the CAA's work that affect commercial air passengers. Some suggested that this should include investigation of all issues which affect air passengers including those currently outside the CAA's remit.

A number of respondents suggested that the panel could make use of the intelligence from existing CAA data such as passenger complaints and survey work. But some stakeholders also suggested that the panel should have a modest consumer research budget to complement the intelligence it would receive from the CAA data.

Q: Are there any specific areas of the CAA's work that you would expect the Panel to be involved with?

In general the respondents agreed that the panel should be involved with the CAA's work in relation to the whole passenger experience including booking a ticket, at the airport, on the aircraft and making a complaint.

There were, however, differing views on whether the panel would have sufficient expertise to be able to advise on some areas of the CAA work. For example, a number of respondents argued that the panel should not be involved in price controls on regulated airports because members would not possess the economic expertise to contribute fully to the process. However, other respondents thought it essential for the panel to be involved in major set piece regulatory activities such as price control. They suggested that the panel could add value to discussions on issues such as service quality during the price control process.

Stakeholders broadly agreed that the panel should be involved in compliance and enforcement of DBC and PRMs (Persons with Reduced Mobility) legislation.

Q: Do you agree that the Panel should interact with other consumer organisations?

Q: Are there any other organisations that you think should be included?

In general, the respondents agreed that it was essential for it to interact with other consumer organisations – in particular airport consultative committees, Passenger Focus, and Which?. It was also suggested that it should seek to have close links with other sector regular consumer panels.

Q: We are proposing to recruit a mix of representatives. Do you agree?

Q: Are there any other types of expertise that we should be looking for?

The respondents broadly agreed that a mix of representatives would help the panel to ensure that it is able to make an effective contribution to the CAA's work. A number of stakeholders said a small panel in terms of membership would also help achieve this – they suggested no more than ten members including the chair.

Airline representatives generally argued that there should be some form of industry representation on the panel – because otherwise it would not contain sufficient technical knowledge to investigate issues fully. In addition, some of the consumer groups believed that a representational group must have at least some air passenger representatives, particularly from vulnerable consumers such as PRMs. However, in general, stakeholders agreed it was important for members to have the skills to consider the consumer perspective more generally than to merely draw on their own experience.

Q: We are proposing an open process with an advertisement seeking applications and a selection process that will involve members of the CAA Board and other stakeholders. Do you agree?

The respondents broadly agreed that the CAA should control the recruitment process for both the chair and members. There were no opinions on whether other stakeholders should be included in the recruitment process.

Q: Are there any specific interest groups that should participate in the selection process?

In general, respondents considered that members should act as independent advocates and not delegates of any specific interest groups.

Q: Do you agree that at least the Panel chair should receive payment?

Q: What is your view on funding for other Panel members?

There were differing views about whether the chair and members should be paid. Airlines in general thought they should not be whilst consumer groups and ACCs thought they should receive payment.