

## Independent Assessor: Dr Fiona Ellis-Chadwick

### The Aviation Alternative Dispute Resolution (AADR) Report for the Civil Aviation Authority (CAA) for the period:

1<sup>st</sup> October 2019 to 30<sup>th</sup> September 2020

#### 1) Introduction

Since March 2020, the Covid-19 Pandemic has impacted significantly on the Airline industry not only in the UK but globally.

The AADR has had to adapt its operations to meet Government criteria, rules and laws regarding operations during this period, including managing employees using the furlough scheme where possible to retain employees. In response to the changing circumstances and in conjunction with the Civil Aviation Authority (CAA), the AADR has adapted its complaint procedures by introducing the ability to provide extended time frames in the complaint process -where needed- in order to assist both passengers and airlines. Additionally, the complaint procedure has added a new choice -Covid 19- for complainants when selecting a description for their claim. This enabled monitoring of Covid 19 related enquiries. During March to September 2020 this new reporting mechanism revealed the majority of Covid-19 complaints were related to passengers seeking refunds for cancelled flights rather than accepting vouchers offered by airlines (78 complaints in total in this period).

This report covers a 12-month period due to disruptions relating to Covid-19 restrictions and the UK Government Lockdown.

#### 2) Terms of Reference

##### 2.1 Independent Assessor Role

I am an Independent Assessor of complaints received by the AADR, which have been considered, and received final determinations but have left the complainant dissatisfied, either with the legal determination or the service levels provided by the AADR scheme. In my role I review all of the available evidence and make recommendations based on my findings. I consider the service complaints and cannot comment on or make legal recommendations but seek to ensure that any recommendations made by the AADR are accurate and that complaints have been conducted within their scheme rules. For full details of the Independent Assessor Role see Appendix 1.

In addition to producing independent assessment reports on individual cases, in a normal year I report to the CAA twice a year in April and October. On this occasion my report covers a 12-month period; providing a summary of my independent case reviews, with recommendations where appropriate. Before preparing said reports, I usually arrange visits to the AADR Headquarters so that I can be appraised of any changes in procedures, updated on

developments and improvements and raise any emerging issues from cases passed for independent assessment.

Visiting the AADR Team in person has not been possible in this reporting period due to Covid-19 restriction however I have met virtually with the Chief Adjudicator and we have discussed in detail changes and upgrades to the AADR procedures and processes.

## **2.2 Aviation Alternative Dispute Resolution (AADR)**

Consumer Dispute Resolution Limited (CDRL) (which trades as Aviation ADR) is an independent non-statutory organisation that is approved by the CAA as an authorised ADR provider.

The Aviation ADR scheme (“the Scheme”) is designed to reach a resolution of unresolved disputes in full and final settlement. It provides consumers with independent redress of complaints relating to acts or omissions of airlines in relation to passenger’s/consumer’s rights when they use the services of an airline.

Full details of the AADR scheme, Conflicts of interests see Appendix 2 and 3.

## **2.3 Acknowledgements**

I would like to thank Dean Dunham CEO, Consumer Dispute Resolution Limited and his team. Special thanks to Karen Hannant-Lawson for her support on cases, and discussions of AADR changes and updates; thanks also to Laura Reeves for responding to my queries and providing supporting evidence for cases through this challenging reporting period; and to Chris Wright for working on the data reports.

I would also like to thank Niya Dimitrova Consumer Enforcement Officer, CAA for her continued support.

## **3) Cases Reviewed by Independent Assessor**

In this report period 1<sup>st</sup> November 2019 to 30<sup>th</sup> September 2020, I received 6 cases to review as the Independent Assessor. Each of these cases involved service complaints against the AADR which had resulted from a combination of complaints against airlines. Before discussing each of the cases, details of the AADR procedures which lead to a case being sent for independent assessment are provided.

### **3.1 Independent Assessment Procedure**

Complaints are sent for independent assessment if Claimants feel that the AADR has not processed their case within specific timelines, following all correct procedures, in a fair and reasonable manner. The complainant will have a right to raise a service complaint with the AADR. The outcome will be in accordance with:

- i) the applicable laws/regulations
- ii) the evidence received from the parties involved

Complaints which can be considered are those regarding:

- Inability or difficulty experienced when attempting to lodge a claim
- A claim has been rejected as out of scope and the Claimant feels this is not the case
- We did not follow the process as set out in the Scheme Rules
- Our staff were rude or generally unhelpful
- We have not handled a claim within the set timescales
- We failed to take account of all information and evidence uploaded on to the Portal
- We took account of information that we should not have taken account of
- We applied the facts incorrectly
- We applied an irrational interpretation of the law/regulations

In order for Claimants to be eligible to lodge a service complaint, their claim must now be closed, unless the complaint is regarding a breach of the 90 days Adjudication period and the complaint must be filed within two months of the Final determination being issued.

The AADR will acknowledge the complaint when received and we have 30 days to investigate and provide our response. If the Claimant remains dissatisfied, they can, within four weeks, request that the matter is handled by the Chief Adjudicator. Once this request is received, the Chief Adjudicator has 30 days to provide a response.

If the Claimant is still unhappy, they can, within four weeks, request that the case is sent to the Independent Assessor, who will then have 30 working days to respond.

In the rest of this section cases received are briefly reviewed; the original reason for the complaints summarised as well as the basis of the service complaint, which is followed by details of the outcome and recommendations from my assessment. These are then collated and fed into my overall recommendations.

### **3.2 Case summaries, Independent Assessment Outcomes and Recommendations**

#### **Complainant Case 1:**

Complaint made November 2019 involved a service complaint relating to the final adjudication arising from the handling of a United Arab Emirates flight. The complainant said there was a disparity between the delay to their flight and other flights and subsequently raised a service complaint about the AADR adjudicator having misread or wrongly interpreted information.

#### **Outcome of independent assessment:**

From the information available to me, I found no clear evidence to suggest that the AADR adjudicators had misread information.

#### **Recommendations:**

The AADR made a goodwill payment of £25 in recognition of the complainant's time involved in gathering and presenting follow-up information and bringing this case to their

attention, even though the initial complaint against the airline was not upheld. The case was then closed.

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**Complainant Case 2:**

Complaint made December 2019. This case concerned a complaint about an EasyJet flight made on 6<sup>th</sup> July 2019 from Geneva Airport to London Gatwick. Delay and disruption to the flight resulted in an extended overnight delay for the passenger. The airline claimed the delay was due to extraordinary circumstances and which caused a subsequent unavoidable delay so no compensation was due.

**Outcome of independent assessment:**

The conclusions of the AADR investigation were that the airline had provided sufficient evidence to substantiate their claim of extraordinary circumstances based on an Air Traffic Management Decision and therefore no compensation or remedy was due. The adjudication of the case was conducted within the parameters of the AADR scheme. Processes were conducted in a timely manner and a comprehensive determination provided to the complainant. The service complaint for this case focused on a claim of lack of evidence provided by the airline during the case. But there was no evidence to support this claim and so the service failure complaint was not supported, and the case was closed.

**Recommendations:**

I recommended to the AADR that complainants and airlines are clearly informed at the end of the initial determination stage (20<sup>th</sup> August 2019 in this case) of the dispute resolution process. Also, that it is drawn to the attention of both parties that any recommendations made at this stage may be subject to change based on the provision of further evidence and or information.

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**Complainant Case 3:**

Complaint made January 2020. The case related to a delayed flight with EasyJet, scheduled for departure on 18<sup>th</sup> December 2019 from Bristol to Copenhagen. The complainant wanted the airline to pay compensation for expenses incurred in their onward journey as a result of a delayed arrival.

The service complaint for this case focused on:

- mishandling of the complaint;
- lack of suitable legal expertise and work experience;
- senior management avoiding the complainant.

**Outcome of independent assessment**

I reviewed all the evidence and the issues raised relating to the original flight cancellations, and the issues raised by the complainant over the handling of this case by AADR staff.

I concluded that there was no evidence to support these claims. The evidence provided in the case file showed that the AADR staff involved in the case responded appropriately, courteously and provided good standards of service throughout the case within time parameters. The complainant failed to provide evidence to support their claims of service failure by the AADR. The recommendation was for no further action and the case to be closed.

**Recommendations:**

The basis on which the complaint was accepted as being in-scope of the AADR scheme appeared reasonable. The handling of the case was within the parameters of the scheme. The service element of the case revolved around the dialogue between the complainant and AADR Team, during which the complainant’s emails became increasingly accusatory. The cause of which appeared to be the result of the complainant not being successful in their claim for an increased offer of compensation from the airline.

There appears to be a need for complainants and airlines to be more clearly informed at the end of the initial determination stage of the dispute resolution process. Attention to the details of the scheme rules should be highlighted to both parties particularly with respect to any recommendations made at this stage in the process. As with Case 2, complainants need to be aware that adjudications may be subject to change based on the provision of further evidence and or information. Whilst this information is available; in these cases, the complainants for various reasons have either not read or not accepted the provisions of the AADR scheme and as a consequence had heightened expectations of what might be achieved on their behalf.

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**Complainant Case 4:**

Complaint made July 2020 relates to an EasyJet booking for a planned flight from London Stanstead to Naples International Airport, Italy; scheduled departure at 12.50 (local time) on, 21<sup>st</sup> August 2019.

The complainant made a cancellation to this booking, then reclaimed the cost of the flight. The airline paid a refund to cover the Government tax of £18.73 but withheld the remainder of the cost of the booking, which they justified by their booking terms and conditions.

The complainant then raised a service complaint covering the following issues:

- Late response by AADR
- Unacceptable involvement in the case by the Chief Adjudicator
- Consideration of the information and evidence provided, and lack of reasons for decisions
- Notification of the right to raise a service complaint
- Contact for the independent Assessor.

**Outcome of independent assessment:**

Late response time by AADR, this case was outside the scheme’s quoted 30 calendar days and despite being in an unprecedentedly difficult trading period due to restrictions relating to Covid-19 pandemic, I feel it was reasonable for the complainant to receive an update on the progress of the service complaint within the stated period.

Dissatisfaction at the involvement of the Chief Adjudicator and accusations of a lack of impartiality. There was no evidence to support this part of the claim or evidence which might suggest a different outcome had the case been reviewed by a different Adjudicator.

Consideration of information and evidence was acknowledged, and I agreed the complainant should have been provided with additional information, so he was informed about how each substantive point in the original complaint was handled by the AADR Team.

The right to file a service complaint is set out in the AADR Service Complaint Process.

Contact with Independent Assessor, access is provided through the AADR complaint procedure.

**Recommendations:**

I found points of agreement with regard to how AADR informs complainants about their rights to make a service complaint and made recommendations that this part of the process is reviewed by the AADR Team.

I also recommend that the AADR make a payment of £25 as a goodwill gesture for the time spent by the complainant to carefully and thoroughly bringing these matters to the attention of the AADR.

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**Complainant Case 5:**

Complaint made July 2020. This case was initially brought to the attention of the AADR on 22<sup>nd</sup> October 2019 and was deemed to be in-scope of the scheme on 15<sup>th</sup> November 2019.

This case involved luggage delay on a KLM flight from Newcastle International Airport, United Kingdom to Munich International Airport, Germany, on Saturday 8<sup>th</sup> June 2019. The complainant raised a case because he was left without clothing and equipment for ongoing travel arrangements and commercial commitments in Garmisch-Partenkirchen.

The subsequent service complaint was based on the complainant believing the AADR had not properly reviewed the evidence provided during the complaint process.

**Outcome of independent assessment:**

From the evidence and correspondence between the complainant, AADR Team and Chief Adjudicator, there was no support found for the complaint and the AADR was not found to be lacking in their adjudication of this case.

However, the complainant had found difficulties with identifying appropriate types of evidence and I agreed that individual traveller's may need additional assistance in making their claims against airlines.

**Recommendations:**

I recommended the AADR to review support given to complainants and consider how the scheme might provide additional assistance to passengers who wish to raise service -with regard to the provision of evidence and supporting information- when making their complaint,

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**Complainant Case 6:**

Complaint made September 2020. This case involved a Wizz Air flight AC897 /AC824 from Avram Iancu Cluj Romania to London Luton, then to Terrace British Colombia Canada via Vancouver Canada, on 20<sup>th</sup> June 2019. The complainant had flight plans disrupted on the outbound leg of the journey due to not having a transit visa for the UK. The complainant was seeking compensation and reimbursement of expenses in accordance with EU regulations 261. This claim was rejected by the airline Wizz Air and then by the AADR. The complainant subsequently raised a series of service complaints citing business misconduct by the AADR as the cause of the complaints.

**Outcome of independent assessment**

This was a complex case, and resulted in an extensive case file, multiple service complaints being registered, which resulted in an elongated complaint process.

The case failed to achieve a positive outcome. At every stage in the initial case appropriate document evidence was not provided to support the complaint.

**Recommendations:**

Even though the case was not supported I recommended to the AADR that they review the complaints procedure to ensure complainants are aware that duplicate complaints will not be considered. I also recommended to the AADR that as a goodwill gesture; a payment of £50 was offered in recognition of the amount of time taken by the complainant and his wife in preparing and presenting complaints, writing follow-emails and a phone call.

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### 3.2 Overview of recommendations from cases submitted for independent assessment

Of the 6 cases presented for independent assessment the complainants were dissatisfied with the outcome of their case and subsequently raised service complaints. Section 3.1 provides details of the reasons why a complainant might seek independent assessment. A re-occurring theme was:

*Professional standards of AADR staff (4 cases).* Four complainants were dissatisfied with the service standards of individual members of the AADR team. But the complainants were also dissatisfied with the outcome of the final adjudication of their cases. In order to further their complaints the complainants have raised a service complaint about AADR staff. In each of these cases the tone of complainants' communications became unpleasant towards the AADR case handlers.

However, in each of the cases reviewed there was no substantive evidence provided to support the service complaint so no further action was recommended.

To avoid this type of complaint in the future could it be possible for:

- a) Both parties to sign at the initial determination stage that they have read and understood the scheme rules, and acknowledge that the Final Determination recommendations may change?
- b) Further guidance to be given on what constitutes a valid service complaint. In each of the 4 cases, the complainants appear to have become stressed and angry and then dissatisfied. If they had clear advice on the type of valid complaint and how to evidence their complaint this situation may be avoided in the future?

None of the cases were fully supported following independent assessment but there were issues which I have recommended the AADR Team review in order to avoid future dissatisfaction with the AADR service around these issues:

Review the support information provided to claimants on how to provide appropriate evidence to support their cases, how to correctly submit claims and their rights regarding making service complaints.

Responses to my recommendations by the AADR are discussed in section 4.1 and 4.2.

## 4) Overview of Aviation ADR Case Handling (All cases)

The AADR handled a total of 1464 complaints initially categorized as service complaints. Due to the difficult circumstances created by the Covid-19 pandemic these figures are for the year period from 1<sup>st</sup> October 2019 to 30<sup>th</sup> September 2020.

Table 1 shows an overview of the total number of complaints received by AADR; Table 2 the total number of service complaints and those cases in-scope which proceeded to further scrutiny. Details of the nature of these service complaints is shown in Table 3.

**Table 1a AADR Airline Complaint and Outcomes 1<sup>st</sup> October 2019 to 30<sup>th</sup> September 2020**

Total Cases Received	Cases moving through to Final determination	Cases in progress
28052	16389	11663

**Table 1b Cases with an agreed Final determination**

Failed cases	Successful cases	AAADR Cases still open
6258	2129	3276

Please note as of the end date of this report -October 31<sup>st</sup> 2020- there was an additional 4726 cases in progress at the Final Determination stage. These cases were part of a large batch of complaints received from an external complaint handling service. These cases were carefully managed to move through the AADR system in normal time frames to provided complainant and airlines appropriate response times.

**Table 2: AADR Airline Service Complaints Overview for the period 1<sup>st</sup> October 2019 to 30<sup>th</sup> September 2020**

Total Cases Received*	Cases in-scope	Out of Scope cases	Independent Assessment
1464	329	1135	6

**\*Includes cases coming through the AADR portal which are out of scope cases relating to Non-Aviation sectors and misdirected complaints, which are not related to AADR Service provision.**

**Table 3: Breakdown of In-Scope Service complaints**

Reason for service complaint	Number of cases
Update on complaint	152
Unhappy with Determination	113
Duplicate service complaint	45
Unhappy with Service	13
Bank Detail Issue	6

#### **4.1 Upgrades to the AADR complaint handling processes and procedures.**

During this reporting period the AADR has continued to implement the improved systems covered in the April/September 2019 report. There has been a reduction in the number and type of cases put forward for independent assessment. There was only one case involving extended time delays for case handling. Improvement to the AADR IT systems appears to be having a positive impact and ensuring the timeliness of complaint handling. Problems with accessing the complaint portal also appear to have improved. Finally, there were no reported issues of lack of responsiveness of AADR staff.

However, professional standards continue to raise issues as discussed in section 3.2. In 2019 the AADR took action to ensure the skills of the complaint handlers were such that they were able to assess cases before joining the specialist complaint teams. This strategy in recruitment and training appears to have led to a reduction in this aspect of complaints. The benefits of this upskilling of the specialist teams appears to have produced consistency across cases if they are transferred between case handlers. From the evidence I have reviewed these issues occur not particularly as a lack of skills of the case handlers but lack of awareness of the meaning of each of the stages in the AADR process and heightened expectations of what might be achieved by the complainants.

Since January 2020, the Covid-19 pandemic has affected free movement of travellers around the globe. As the Covid-19 virus spread, more restrictions were introduced, along with quarantine rules causing further disruption to airline travel.

As a result, the Aviation industry has experienced an extremely challenging time during this reporting period. The pandemic has resulted in many operations being suspended and numerous employees being laid off, made redundant or furloughed.

AAADR have worked with the CAA, and adapted complaint procedures with the introduction of the ability to provide extended timeframes in relation to various steps in the ADR process, in order to assist both parties where needed.

To assist complainants further AADR introduced 'Covid-19' as a choice when first selecting a description of a claim. This helped to filter Covid-19 related complaints and allowed the AADR to monitor and report on the number of Covid-19 claims lodged.

#### **4.2 Response to Recommendations made from independent assessment.**

Following receipt of the reports from the Independent Assessor, AADR Team looked at the information provided to complainants, in relation to the lodging of service complaints. AADR Team have taken the following actions:

A review of the customer's complaint journey when making a service complaint, which starts as shown below, at 'Complain about the Scheme' (see Figures 1 and 2):

# Independent Assessment Report for the Civil Aviation Authority (CAA), October 2019 – September 2020

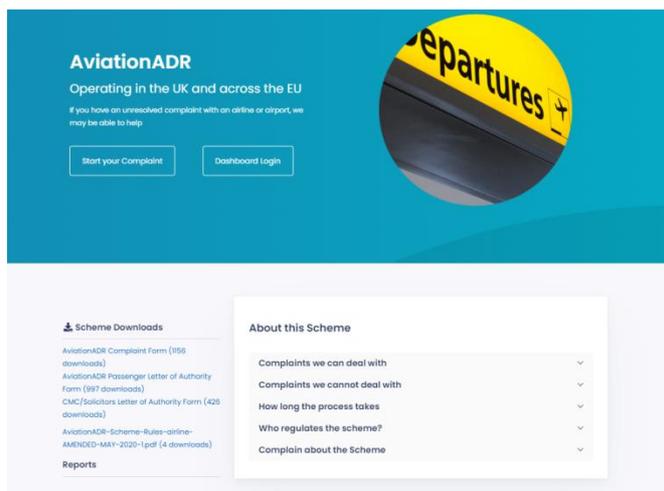


Figure 1 Complain about the Scheme

This then opens up to provide a link which will take the Consumer straight to our Ticket Support System, or for those not able to use this on-line system, a postal address is also provided, as shown below:

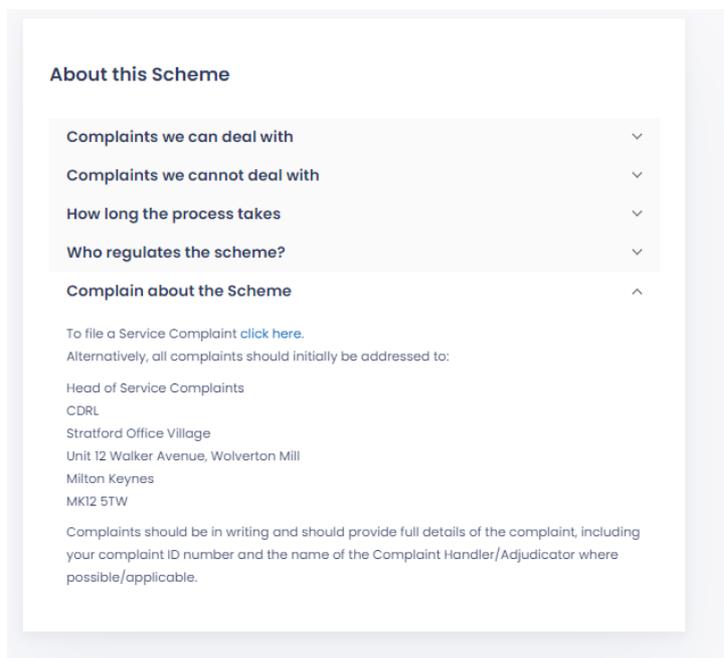


Figure 2 Ticket Support System

Once a ticket has been created, the Consumer will receive an email with a unique ticket number, and they then have the ability to log in to check the status of the ticket whenever they wish. Once the ticket has been accepted, they will also receive an acknowledgement from our Executive Team. The AADR Team also checked the Scheme Rules to ensure that the information provided was also easily accessible and clear. They found the relevant document contained a hyper link to ‘making a service complaint’, however, this link was broken. Action was taken to update the document, so all links are actionable and in working order.

## 5) Final Comments

During this very challenging period good progress has been made on the AADR handling of customer complaints within their service standards, with only six cases requiring independent assessment and of those three merited a recommendation of a goodwill payment.

Interim recommendation made in April 2020, from independent assessment have resulted in AADR review of the customer complaint journey. Then improvements have been made with the aim of improving levels of service.

The causes of complaints requiring independent assessment are different to the previous period suggesting improvements to the system offer continual refinements to the processes and improved service. Overall, the AADR Team, has been very responsive to recommendations emerging from independent assessment cases and the number of service complaints handled has continued to fall in this period of unprecedented disruption in the airline industry.

Yours sincerely,



Dr Fiona Ellis-Chadwick  
Independent Assessor for the AADR, 20<sup>th</sup> November 2020

## Appendix 1 Independent Assessor – Terms of Reference (October 2019)

### Introduction

CDRL (operating as AviationADR) is approved by the Civil Aviation Authority (CAA) to provide alternative dispute resolution services in the aviation sector. As part of the approval, AviationADR must have an independent assessor, whose role it is to carry out a review of all eligible service complaints, from an independent and partial point of view.

### Terms of Reference

#### *The role*

1. The Independent Assessor may only consider service complaints that are ‘eligible’ in accordance with the Service Complaints Review Policy (“**the Policy**”). A complaint may be referred to the Independent Assessor by the complainant, in accordance with the Policy or by the Chief Adjudicator of AviationADR, who may not unreasonably refuse to make such referral.
2. The Independent Assessor shall review each complaint, taking account of: i) the complainant’s grounds of complaint and any evidence submitted in support; ii) the responses to the complaint provided by AviationADR.
3. When a complaint is referred to the Independent Assessor for investigation, the Independent Assessor shall have access to all related files, computer records and persons relevant to the investigation, subject only to compliance with data protection legislations. The Independent Assessor shall have complete freedom to decide how to investigate the complaint but will normally be expected to report the outcomes and to produce a final recommendation/proposal letter within 30 working days of referral.

#### *Outcomes*

4. If the Independent Assessor decides that a complaint should be upheld then he or she may recommend that AviationADR make an apology or take some other corrective action and/or make an appropriate goodwill payment, for damage, distress or inconvenience to the person or organisation making the complaint.
5. Except where it contains an obvious error, which may be identified by either the complainant or the Company, the Independent Assessor’s “Final Report” and any recommendations within it will be binding on AviationADR.
6. Subject to paragraph 5 above, there is no appeal against the Independent Assessor’s “Final Report”.

#### *Independence*

7. The Independent Assessor is engaged by CDRL on an independent basis. The Independent Assessor is therefore not answerable or accountable to CDRL and is free to report any concerns about the operation of the AviationADR scheme directly to the CAA.
8. The Independent Assessor must not hold shares or have any other form of interest in any airline or airport that subscribes to the AviationADR scheme. The Independent Assessor shall immediately notify AviationADR of any potential conflict of interests.

**Reporting**

9. The Independent Assessor shall provide the CAA with a 6-monthly report by the end of April and October each year (covering the period October – March and April – September). This report will detail the view of the Independent Assessor as regards any potential improvements which could be made to aid the effectiveness of the AviationADR scheme, including the review process (“**the Report**”).
10. The Report shall include case examples, data and statistics and any other information that the Independent Assessor believes will effectively demonstrate his/her findings.
11. The Report shall include details of all recommendations made.
12. The Report shall identify any common themes or issues causing confusion or potential harm to consumers during the ADR process.

## Appendix 2 Aviation Airline Dispute Resolution Scheme Rules

### ‘AIRLINE’ SCHEME RULES October 2018

#### INTRODUCTION

Consumer Dispute Resolution Limited (CDRL) (which trades as AviationADR) is an independent non- statutory organisation that is approved by the Civil Aviation Authority as an authorised ADR provider.

The AviationADR scheme (“**the Scheme**”) is designed to reach a resolution of unresolved disputes in full and final settlement. It provides consumers with independent redress of complaints relating to acts or omissions of Airlines in relation to Passenger’s/consumer’s rights when they use the services of an Airline.

For the purposes of the Scheme Rules:

“**Airline**” shall mean an Airline which has agreed to be a member of AviationADR and be bound by AviationADR’s Scheme Rules;

“**Passenger**” shall mean an individual who is the purchaser, and/or the recipient of goods or services provided by an Airline under an aviation services contract.

#### **Integrity and Independence**

Our independent status is at the heart of everything we do, as is our commitment to openness, honesty and integrity and we recognise the importance of this to everyone that relies upon our services.

#### **CDRL Board of Directors (“Board”)**

To help preserve our independence and provide an invaluable set of checks and balances on our work, the Board acts to regulate how we operate. All Board members share our vision of inspiring consumer confidence and raising industry standards and do so on a voluntary basis. The Board consists of i) executive board members (i.e. who work at CDRL as part of the management team), non-executive board members, and independent non-executive board members (i.e. who are entirely independent of CDRL and sit on the Board on an independent and impartial basis).

Governed by a set of internal byelaws, the Board regularly reviews a cross section of our determinations, to ensure they are both fair and reasonable. It also oversees our rules, practices and procedures.

## THE RULES

### 1. Complaints we can deal with ('complaints in-scope')

1.1 We can only deal with complaints where the following criteria is satisfied:

1.1.1 the airline subscribes to work with AviationADR, an up to date list can be found at [www.aviationadr.org.uk](http://www.aviationadr.org.uk) ("**Subscribing Airlines**"); and

1.1.2 where either i) the Passenger has filed a complaint with the Airline and has not received a Deadlock Letter within eight weeks or ii) has received a Deadlock Letter where the outcome is a rejection; and

1.1.3 the complaint is a dispute stemming from aviation services contracts relating to a direct flight whose point of origin and/or final destination is in the United Kingdom, or aviation services contracts relating to a directly connecting flight where the point of origin, final destination or any point of connection takes place in the United Kingdom, in the following areas:

- Denied boarding, delay, or cancellation;
- Destruction, damage, loss, or delayed transportation of baggage;
- Destruction, damage, or loss of items worn or carried by the Passenger;
- Problems faced by disabled Passengers or Passengers with reduced mobility when using air transport services;
- Any disputes arising where the Passenger alleges that the Airline has not acted fairly; that is, where the Airline has failed to provide the service as agreed under the contract for aviation services; and
- Problems faced by disabled Passengers or Passengers with reduced mobility, either in the process of contracting with the Airline or when using the services of the Airline.

**'Deadlock Letter'** is a response from the Airline to the Passenger (or their representative) where the Airline either i) rejects the complaint or ii) does not indicate clearly that there is the potential for further consideration of their complaint.

1.2 The Scheme cannot be used to settle disputes which fall into one or more of the following categories:

1.2.1 Claims brought by someone who does not fall within the definition of a Passenger (as defined above under 'Introduction');

1.2.2 The dispute is frivolous and/or vexatious;

1.2.3 The subject matter of the dispute is the same as an existing or previous valid application made to the Scheme by the same Passenger about the same flight;

1.2.4 The dispute has been or is the subject of court proceedings or an alternative independent procedure for the determination of disputes (unless such court

proceedings or alternative procedure has been abandoned, stayed or suspended).

1.2.5 Disputes where the Passenger is claiming a total sum of money which exceeds £25,000;

1.2.6 The Passenger brought the claim to AviationADR at least 12 months from the date upon which the Airline gave notice to the Passenger that the Airline was unable to resolve the complaint (or, where no notice is given, at least 12 months since the Passenger's last attempt to contact the Airline); and/or

1.2.7 Where dealing with such a type of dispute would seriously impair the effective operation of AviationADR.

**NOTE:** Putting a dispute through the Scheme does not remove the Passenger's duty to pay the Airline any other amounts which are due, and which are not disputed.

## **2. How to file a complaint**

2.1 There are three ways to file a complaint with AviationADR;

**By post** – where Passengers do not have access to the Internet: telephone 0203 540 8063 and ask one of our team members to post a complaint form. Completed forms should be sent to: AviationADR, 12 Walker Avenue, Stratford Office Village, Milton Keynes MK12 5TW

**Online** – complaints can be lodged via AviationADR's online portal. To access this simply go to the home page of the AviationADR website, Choose the 'Airline' sector and then locate the 'make a complaint' button.

**By telephone** –telephone 0203 540 8063 and speak to the aviation initial complaints team.

2.2 After lodging a complaint, Passengers are taken to their own personal portal page. This page provides live information about the claim so that the parties can check the progress at any time of day.

## **3. Information and Evidence**

3.1 Passengers must submit all relevant information and evidence in support of their complaint at the point of filing the complaint with AviationADR.

3.2 Airlines must submit all relevant information and evidence, in support of their defence of the complaint, within 28 days of being notified of the complaint.

3.3 Neither party will be permitted, without the express permission of the Chief Adjudicator of AviationADR, to submit further information or evidence after a Complete Complaint File has been announced.

3.4 The Adjudicator may obtain and rely upon independent evidence, such as weather reports.

## 4. The Complaints process

4.1 Complaints go through a four-step process as follows:

### Step 1 (Initial Assessment)

4.2 The complaint is reviewed and decision made if it falls within scope, in accordance with 1.1 of the Scheme Rules

4.3 In the event that a complaint cannot be accepted, the Passenger will be notified of this within three weeks.

### Step 2

4.4 The complaint is passed to the Airline, which then has up to 28 days to confirm that it either wishes to defend or settle the complaint.

4.5 If the Airline agrees to settle the complaint, the Airline has 28 days to implement the agreed remedy (such as pay compensation).

4.6 If the Airline elects to defend the complaint, the Passenger will be given 14 calendar days to provide any comment on the defence, if it raises any new information or evidence that was not provided in the Deadlock Letter (Passenger Response).

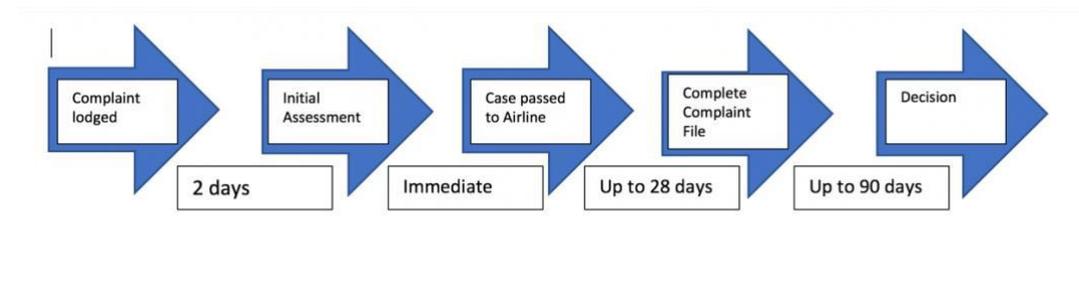
### Step 3

4.7 Following the Passenger Response, AviationADR will notify the parties that it has a 'Complete Complaint File'. From this stage, no further information or evidence may be submitted by either party, unless the Chief Adjudicator of AviationADR authorises such submission.

### Step 4

4.8 At this stage, the complaint is dealt with by the Adjudicator's office where a determination is made in writing. Determinations are produced within 90 calendar days of the Complete Complaint File. If the complaint is highly complex, AviationADR may extend the 90-day period, but must advise both parties of the additional time needed to make the Determination.

**Please note: Oral hearings** (i.e.: face to face meetings or tele-conferences) will only take place if both parties agree.



## 5. Court cases

In the event that AviationADR becomes aware of a case (or cases) progressing through the UK or European Courts, which may affect the outcome of an ADR decision;

The Passenger(s) affected will be advised and given the option to proceed with the ADR process, or place their case on hold pending the outcome of the court case(s) (“**On- Hold Event**”); and

AviationADR shall inform the CAA of each On-Hold Event.

## 6. Rights to withdraw from complaints procedure

6.1 Passengers have the right to withdraw from the complaints process at any stage and to bring a claim to court, by providing notice of withdrawal in writing to AviationADR.

6.2 Airlines do not have the right to withdraw from the complaints process.

6.3 Passengers should note that court proceedings may result in a different outcome to the ADR process.

## 7. AviationADR’s powers

7.1 All AviationADR subscribers are bound by the final determinations of the adjudicator.

7.2 Under our powers we can direct the Airline to:

- 7.2.1 Issue an apology;

- 7.2.2 Pay compensation, in accordance with EC261, EC1107, the Montreal Convention, the Consumer Credit Act 2015 (or any other applicable legislation or regulation);

- 7.2.3 Refund monies;

- 7.2.4 take some practical action; and/or

- 7.2.5 Make a payment which must total no more than £25,000 (including VAT). This sum includes any claims for compensation, refunds, credits and/or waivers.

## 8. Determinations and compensation

8.1 The adjudicator will base his or her determination on i) the facts and supporting documentation available, ii) the applicable law/regulations and iii) what is fair and reasonable in the circumstances (“**the Determination**”).

8.2 Where the Passenger agrees, the determination becomes binding upon Airlines.

8.3 The Determination is not binding upon the Passenger unless it agrees to accept

the decision. Passengers will be given seven calendar days to consider and confirm whether they accept the determination. If the Passenger fails to confirm its acceptance, it will be deemed to have rejected the decision.

8.4 Where the outcome of a determination is a monetary award under EC Regulation 261/2004, the amount awarded will be as set out in those regulations and not varied.

8.5 Where it is necessary to apply an exchange rate in relation to a monetary award, the date of the flight, which is the subject of the complaint, shall be the date at which the exchange rate will be calculated with reference to.

8.6 Interest will not be added to monetary awards.

8.7 Airlines must make compensation payments within 30 days of the determination and then within seven calendar days, provide AviationADR with evidence that payment has been made.

8.8 Airlines agree to accept a £100 fine for failing to comply with the Scheme Rules (including refusal to follow an adjudicator's determination), unless the Airline has a fair and reasonable explanation for such breach.

## **9. General provisions**

### ***Records***

9.1 Records will be maintained of all discussions which take place between AviationADR and the Passenger or Airline or with any third party (such as an expert). All communications and documentation may be shared with both parties.

9.2 Airlines and Passengers authorise AviationADR to share information with the Civil Aviation Authority.

### ***Conflict of interest***

9.3 AviationADR operates a strict conflict of interest policy which can be seen at Appendix 1.

9.4 If, after consideration of the Passenger's complaint has commenced, it is discovered that the ADR official handling the Passenger's complaint has a conflict of interest, the case will be immediately moved to another ADR Official within AviationADR or, if more appropriate, AviationADR will cease handling the complaint. In the latter case, AviationADR will assist the Passenger in transferring their complaint to another ADR entity and pay any fee payable by the Passenger for doing so. If another ADR entity cannot accept the complaint, (or there is not another ADR entity), AviationADR will only continue handling the complaint with the consent of the Airline and Passenger.

### ***Subscribing Airline withdrawal from the Scheme***

9.5 In the event that i) AviationADR expels a Subscribing Airline from the Scheme or ii) a Subscribing Airline withdraws from the Scheme (in both cases ‘**the Cessation Date**’), all complaints filed with AviationADR prior to and up to the Cessation Date, will be completed through to Determination and the Airline will remain fully bound by the Scheme Rules, including in relation to payment of awards.

### ***Confidentiality***

9.10 Passengers will not be bound by any confidentiality restrictions regarding their experience of the Scheme.

### ***Reasonable adjustments***

9.11 Complaints will be dealt with, both orally and in writing, in the language used by the Passenger when entering into a contract with the Airline.

### ***Breaches***

9.12 AviationADR will notify the CAA as soon as possible upon becoming aware of potential/actual breaches of the Scheme Rules by Airlines.

### ***Complaining about AviationADR***

9.13 Passengers can file service complaints about AviationADR by following the Service Complaint Review Procedure, set out at Appendix 2

9.14 In the event that AviationADR is unable to resolve a service complaint to the Passenger’s satisfaction, the complaint shall be escalated to an Independent Assessor. The Independent Assessor shall review the complaint in accordance with the Independent Assessor Terms of Reference, set out at Appendix 3.

## **Appendix 2 CONFLICT OF INTEREST POLICY (as at 1 May 2016)**

**ISB:** Independent Standards Board of CDRL

**Chief Executive:** Dean Dunham or anyone holding such title. **Line Manager:** Your immediate superior

This conflict of interest policy applies to:

- All personnel involved in the ADR process (including complaint handlers and adjudicator)
- The Chief Executive
- All members of the management team of AviationADR

- All members of ISB
- Any contractor employed by AviationADR

### **(“Applicable Persons”)**

#### **Purpose**

All Applicable Persons will strive to avoid any conflict of interest between the interests of AviationADR, complainants and airlines on the one hand, and personal, professional and business interests on the other. This includes avoiding actual conflicts of interest as well as the perception of conflicts of interest.

The purposes of this policy are to protect the integrity, impartiality and independence of AviationADR’s decision-making process and the ADR process, to enable our stakeholders to have confidence in our integrity, impartiality and independence and to protect the integrity and reputation of all those involved in AviationADR.

#### **What is a conflict of interest?**

A conflict of interest will arise in the following circumstances:

- 1 An Applicable Person is related to or personally knows a complainant (i.e.: the consumer) or related to or personally knows a key decision maker from an airline – in relation to an ongoing complaint subject of the ADR process;
- 2 An Applicable Person worked for an airline within the last 12 months that is a member of the AviationADR scheme;
- 3 An Applicable Person holds shares in any business in the aviation sector;
- 4 An Applicable Person has raised a grievance/complaint against an airline that is subject to our ADR process in the past 24 months;
- 5 An Applicable Person has submitted an application for employment to an airline, in the last 12 months, that is subject to the ADR process; or
- 6 Any other matter that would affect the independence or impartiality of AviationADR.

The above is not an exhaustive list of circumstances that will give rise to a conflict of interest but instead illustrations.

#### **Disclosure of Interests**

Upon appointment and on an ongoing basis, all Applicable Persons will, without undue delay, make a full written disclosure of any circumstance that may, or may be seen to—

- (i) affect the ADR official’s independence or impartiality; or
- (ii) give rise to a conflict of interest with a party to the dispute which the ADR official is asked to resolve;

### **Procedure following conflict of interest**

In the event that an Applicable Person has a conflict of interest:

- (a) where possible, the ADR official shall be replaced by another ADR official to handle the particular dispute;
- (b) if the ADR official cannot be replaced by another ADR official—
  - (i) the ADR official shall refrain from conducting the alternative dispute resolution procedure, and
  - (ii) AviationADR shall, where possible, propose to the parties that they submit the dispute to another ADR entity which is competent to deal with it;
- (c) if the dispute cannot be transferred to another ADR entity, AviationADR—
  - (i) will inform the parties to the dispute of the circumstances of the conflict of interest, (ii) will inform the parties to the dispute that they have the right to object to the conflicted person continuing to handle the dispute, and
  - (iii) will only continue to deal with the dispute if no party to the dispute objects.

This policy is meant to supplement good judgement and staff, volunteers and management committee members should respect its spirit as well as its wording.

### **SERVICE COMPLAINTS REVIEW POLICY (October 2018)**

We have very high standards in relation to the service we provide and strive to ensure that these standards are always maintained.

Naturally there will always be a party, in every dispute we process, who will be unhappy with the outcome. In most of these cases we will have processed the case within specified timelines, following all correct procedures, in a fair and reasonable manner, and the outcome will be in accordance with i) the applicable laws/regulations ii) the evidence we have received from the parties and iii) what is fair and reasonable in the circumstances.

However, if you feel that this is not the case, you have the right to raise a service complaint with us.

Please note, there is no right of appeal in relation to final determinations, and this process relates to the way we handled your case.

### **What you can complain about**

We are able to consider complaints which fall into one or more of the following categories:

<b>Complaint</b>	<b>Example</b>

Independent Assessment Report for the Civil Aviation Authority (CAA), October 2019 – September 2020

<b>Start of the process</b>	
You were unable to lodge your claim with us or found it very difficult to do so	You found that our online complaints portal was difficult to use, or something went wrong when you lodged your claim.
We rejected your claim and stated that it was out of scope and you believe that this was wrong and therefore not in accordance with the scheme rules	We rejected your complaint on the basis that you had not complained to the airline first (as required by the scheme rules). However, you did complain to the airline first but didn't get a response and more than eight weeks has passed since you filed your complaint with them.
<b>During the process</b>	
We did not follow the process set out within the scheme rules	We only allowed you seven days to respond when the scheme rules provide that you have 14 days
<b>Our staff</b>	
Your complaint handler or another member of our team was rude or generally unhelpful	One of our team members was rude during a phone call, or within an electronic communication, or failed to assist you.
<b>Timing</b>	

We have taken more than 90 days, from the date we informed you that we had a 'complete complaint file' to finalise your claim.	We notified you that we had a complete complaint file on 1 February but did not send you the final determination until 1 June.
<b>The outcome</b>	
We failed to take account (when finalising the determination) of all information and evidence that you uploaded to the portal or sent to us	We determined that you were not entitled to be reimbursed expenses due to a lack of evidence, but in fact you had provided us with receipts.
We took account of information that we should not have taken account of	
We applied the facts incorrectly	

We applied an irrational interpretation of the law/regulations	
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**What you cannot complain about**

We cannot consider complaints that fall into one or more of the following categories:

**How to file your service complaint and the process**

*Eligibility*

To be eligible to file a service complaint:

- a) Your complaint must be a complaint that we can deal with (as set out in the tables above);
- b) Your case with us must now be closed (unless your complaint is that we have gone over 90 days and you still do not have a final determination); and
- c) You must file your complaint within two months of the date the final determination was issued.

*The process*

If you are eligible to file a service complaint, you can either file your complaint online [[here](#)] or download a complaint form and post it to us [[download form here](#)]

We will provide a response to your service complaint within 30 calendar days.

<b>Complaint</b>	<b>Example</b>
You are unhappy with the determination (save for any of the circumstances set out in the table showing complaints we can deal with)	
The airline has failed to pay your compensation on time.	

If you remain dissatisfied following our initial response, you can request, within 4 weeks, for your service complaint to be reviewed by the Chief Adjudicator, who will respond within 30 days. If you remain dissatisfied following the Chief Adjudicator’s review, you can request, within 4 weeks, for your service complaint to be referred to our Independent Assessor.

The Independent Assessor is not employed by CDRL and will therefore review your service complaint on an independent and impartial basis. The Independent Assessor will respond to you in writing within 30 working days of your request and their response will be the final response in relation to your claim.

**Potential outcomes of your service complaint**

Independent Assessment Report for the Civil Aviation Authority (CAA), October 2019 – September 2020

In most cases where the service complaint is valid, we will i) explain what went wrong and why ii) issue an apology iii) take corrective action (such as amend a determination), if appropriate and iv) make sure that we learn from the error to help continue to improve the service that we provide.

If it is determined that you have suffered considerable detriment as a consequence of the matter you have complained of, either we, or the Independent Assessor, may decide that a goodwill payment is appropriate.

