

ATIPAC

Air Travel Insolvency Protection Advisory
Committee
Annual Report 2022 – 2023

June 2023

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Introduction from the Chair



We are pleased to present this annual report of the Air Travel Insolvency Protection Advisory Committee (ATIPAC) which covers the year to 31 March 2023.

A holiday is always a large household expenditure item. But the current cost of living pressures make it a stretch or even a luxury for many. It is therefore important for consumers to be protected against the travel company failing after they have paid but before they have travelled; or worse still while they are abroad.

The main components of financial protection for air travellers are:

- a thriving and competitive travel industry with low risk of company failure
- an appropriate regulatory regime for consumer protection
- affordable and effective insurance for eventualities not covered by regulations.

These are not fully in place at the moment. It is against this background that we submit the ATIPAC annual report, highlighting the key challenges facing consumers. We describe how the travel industry has been affected by the economic environment; increasing levels of fraud; and the particular problem of changes to the Hajj application system which affected specialist companies and specific communities. We are disappointed that the year saw little progress on two Government initiatives started some time ago: the Airline Insolvency Review led by DfT and the review of the Package Travel Regulations (PTRs) led by the Department for Business and Trade (DBT, formerly by BEIS).

That said, we have reported some positive aspects including a low level of company failures; development of the Government's Passenger Charter in which we were pleased to take part; progress by the CAA on reforming the ATOL licensing scheme for travel companies; and the helpful engagement and support we received from Government officials. We have also reviewed our own terms of reference with officials to ensure that the Committee remains representative as the travel industry changes.

Looking forward, members have expressed concern over the potential impact of the Retained EU Law (Revocation and Reform) Bill (REUL) in relation to the Package Travel Regulations and several other aviation protections which are within its scope. The Committee very much hopes that similar consumer rights and protections to those currently set out in the PTRs will continue to be available for passengers' benefit in the future, taking advantage of post-Brexit opportunities but avoiding significant disruption which would be caused by removing these regulations entirely.

With this in mind, the **recommendations** from the Committee, as detailed in the report focus on the following:

- Consumer protection in the event of airline insolvency, particularly measures for an orderly wind-down
- Refunds from airlines when flights which are part of a package holiday are cancelled
- Formalisation of Refund Credit Notes, an emergency measure which helped companies survive the pandemic and could be revived in future crises
- Post-Brexit opportunities but in the context of continued protection of package holiday passengers
- Clarification of Regulation 29 of the PTRs and an industry-level Code of Conduct.

The Committee was grateful to the previous Secretary of State for Transport, The Rt Hon Grant Shapps, for his response to our report of 2021-22 and the follow-up discussions held with officials. I hope that this year's report is similarly well-received and would welcome the opportunity to discuss it further with the relevant Ministers and their officials.

1. The Role of ATIPAC

- 1.1 It has long been recognised that holidays are a large household purchase and that there is a period of time between a customer's payment and the customer's return from holiday, and the seller could fail at any point during that period. The Air Travel Insolvency Protection Advisory Committee (ATIPAC) was created in 2000. Its role is to provide informed advice to the Secretary of State for Transport on financial protection of air travellers and customers booking with air travel organisers. This protection is mainly provided through the ATOL scheme which, broadly, licenses businesses to sell air package holidays and regulates contributions to the Air Travel Trust Fund to provide customers of failed tour operators with refunds or repatriation to the UK as necessary.
- 1.2 The Committee is devoted to furthering the interests and financial protection of air travellers. Its Constitution and Terms of Reference are provided at Appendix A. The Committee, which meets on a quarterly basis, has an independent Chair, and its membership is uniquely balanced between trade, passenger representatives and independent members, with a breadth and depth of knowledge and experience from all areas of the travel industry.
- 1.3 Given the diversity of its membership, it is not possible for the report to cover all points of view, however, it reflects the viewpoint of the majority of members. It should also be noted that although the Committee's Secretariat function is provided by the Civil Aviation Authority (CAA), the report does not necessarily reflect the CAA's own position.

2. Challenges in the past year

Economic Environment

- 2.1 The widely-reported flight disruptions in the early part of the summer 2022 season caused challenges for many consumers including late cancellations and difficulties experienced by some passengers with reduced mobility. This led to a surge in complaints to Citizens Advice along with negative media reports. Many of these problems stemmed from the increase in demand for travel when Covid restrictions ended, and the lack of staff in place to deal with the volume of passengers. Steps taken by all parties, such as the capacity caps imposed at airports, helped improve the situation as the season progressed and by September it was reported that cancellations were below the annual average.
- 2.2 During the pandemic a system of Refund Credit Notes was invented. Normally travel companies are required to give a refund within 14 days of cancelling a holiday, but that policy wasn't designed for a situation where all global travel was stopped. Companies would simply have gone under, so were allowed by agreement to issue Refund Credit Notes. These were backed by the ATOL scheme until September 2022 so that consumers were protected if their company went bankrupt before they could use their Credit Note. A strong return in demand for holidays from consumers, combined with CAA communications campaigns on unused Credit Notes, resulted in the vast majority being used by that date, with around £30m remaining unspent. However, this was from an initial figure of at least £130m, so represented a beneficial outcome for many consumers. But it also meant that the amount of new money coming into the industry in our reporting year was reduced as consumers used the Credit Notes to pay for holidays. Consequently, many businesses continue to carry debts since the pandemic and margins are such that there is no room for further cuts to be made.
- 2.3 Members have reported that trading has been good from the point of view of consumer demand, which in some cases is ahead of 2019 figures. However, customers are booking later, with booking levels previously seen at 12 weeks in advance of travel typically not seen until around 10 weeks. This is thought to be partly as a result of consumer caution created during the pandemic and also because of the pressures on household finances from recent inflation and economic uncertainty.

Regulatory Environment

- 2.4 The Committee is concerned that the Government has made very little progress on our recommendations from last year. The financial protection regime for air travellers is fragmented across various regulations both European and domestic. It has grown up piecemeal and is difficult for consumers to understand. The Committee believes that an overall vision is needed to move into the future on a planned basis.
- 2.5 In addition, airline insolvency and the Airline Insolvency Review recommendations of 2019 were highlighted in our previous report as key areas to be progressed and this also remains the case. We draw particular attention to Chapter 6 of the Review on an orderly wind-down at the point of insolvency. The Chapter explores how to keep a UK airline's fleet of aircraft flying for a short period so that passengers can continue their planned journeys. The Committee thinks further work on this would be of benefit to passengers.

- 2.6 Most aviation regulations including passenger rights are EU based and have an uncertain future because of the REUL Bill. Brexit does provide the opportunity to make some improvements, but the Committee very much hopes that the existing protections will be substantially retained for passengers' benefit and industry stability. Following workshops held in summer 2021 on the PTRs, DBT identified some potential improvements but these have not gone ahead pending a broader reform package. This delay is unwelcome.

Fraud

- 2.7 In September 2022 the ONS reported a 25% increase in fraud offences overall. The travel industry is one of the sectors affected. Action Fraud (the national reporting centre for fraud and cybercrime) launched a national awareness campaign in May 2022 to urge the public to think twice before handing over money and personal information when booking holidays. The Committee receives updates on issues being investigated by Trading Standards that relate to the travel industry such as websites advertising fake accommodation. Work by the National Trading Standards E-crime Team and other enforcement agents to bring down domain names of fraudulent websites has resulted in a saving of £12m of consumer detriment and is also beneficial to the genuine businesses in the industry.

Hajj Pilgrimages

- 2.8 The application process for Hajj pilgrimages was changed in July 2022 to a direct online system endorsed by the Saudi Arabian Government. This meant that all packages sold by UK operators had been cancelled, and some pilgrims were not able to take part in the Hajj as they had planned. Two UK operators became insolvent as a result of these changes, which although disappointing for those involved, was a lower number than had initially been envisaged.

3. Positives in the past year

Low Insolvencies

- 3.1 Despite the challenges caused by the effects of the pandemic on the industry, the level of failures has been relatively low. In May it was reported to the Committee that eight ATOL-licensed companies (ATOL holders) had failed, which is in-line with many previous years, and significantly lower than the previous two. Please see Appendix B for comparative data.

Aviation Passenger Charter

- 3.2 This was a useful initiative by the Government in summer 2022. The Committee Chair and members were pleased to be invited to take part in the development of the Charter. We believe we made an important contribution as the initial draft included no information for passengers about financial protection against company insolvency. Regular progress reports and feedback on the Charter are provided to the Committee from DfT colleagues.

Engagement with Government

- 3.3 The Committee has benefited from continued input from DfT and DBT colleagues. We welcomed the invitation from the Rt Hon Grant Shapps MP to meet with Senior Civil Servants at the DfT in July to discuss the key areas of concern raised in the last Annual Report. Julia Lo Bue-Said, one of the industry representatives on the Committee, took part in the meeting along with the Chair and provided some business-perspective on the state of the industry. ATOL Reform, the Package Travel Regulations and Airline Insolvency were also discussed as issues of particular concern to ATIPAC.
- 3.4 Members hope to continue to benefit from these relationships going forward.

ATOL Reform Progress

- 3.5 The Committee is pleased that the CAA has moved to a second stage of consultation on reform of the ATOL scheme, which licenses companies to sell air package holidays and protects travellers and their money if the travel operator they booked with ceases trading. The document "ATOL Reform: assessing the impacts of the options for reform – request for further information" was published on 24 January 2023. The general objective of ATOL Reform is to: Increase the likelihood consumers will be able to take the holiday that they have booked and limit the potential financial exposure to UK Government and taxpayers. The CAA has explained its approach to appraising the options and requested further information and opinions from businesses about this.

Updated ATIPAC Terms of Reference

- 3.6 The Committee has been working with CAA and DfT colleagues to develop the ATIPAC Terms of Reference. The aim is to modernise them and make the Committee more representative of the changing travel industry while maintaining independence.

4. Recommendations

Airline Insolvency

- 4.1 A major airline insolvency would be very difficult to manage in the current environment of trying to rebuild post-pandemic. The issues have certainly not gone away since the report in 2019 commissioned by DfT, and the Committee is keen to engage with Government in taking this work forward at the earliest opportunity.

Refunds from airlines

- 4.2 The Committee is pleased that the Government included in its consultation last year a question regarding a statutory right for package organisers to receive a refund from airlines in the event of a flight cancellation, so that they can refund consumers within 14 days where the flights are part of a cancelled package holiday. The Committee broadly favours this but identified some complexities to consider. This was reflected in the Committee's response to the DfT's *Reforming Aviation Consumer Policy: Protecting Air Passenger Rights* consultation.

Formalisation of RCNs

- 4.3 As previously stated the establishment of the Refund Credit Note system was beneficial in keeping many businesses operational during the pandemic. This had no basis in law but was negotiated between all parties including the Government. The Committee recommends the establishment of a more formalised structure so that the system can be called on again in any similar situation.

Post-Brexit opportunities and the REUL Bill

- 4.4 Exiting the European Union has provided the opportunity for legislation benefitting travel consumers to be amended with more ease than previously. The Committee welcomes this as a positive step for the industry. However, Committee members have expressed concern about the potential impact of the REUL Bill, in relation to passenger rights especially the PTRs, which are within its scope. The Committee very much hopes that the consumer rights and protections within the PTRs will be broadly retained for passengers' benefit in the future but taking the opportunity to consider improvements which were not possible within the EU.

Progress of the review of the Package Travel Regulations

- 4.5 Reg 29 has given rise to litigation and needs clarification. This concerns refunds for cancelled flights which were booked for the consumer by a package organiser who has no commercial relationship or contract with the airline but books and pays for the flight for the customer as the customer's agent and on the customer's instructions, as part of a package holiday. Ultimately it is necessary to ensure that the customer receives the refund due but the mechanism is unclear. A Code of Conduct could help ensure that the companies involved act in the interests of the consumer.

5. Conclusion

- 5.1 To conclude, the Committee appreciates that there is a limited amount of time available for Government to allocate to the concerns raised by the travel industry. Therefore, members would like to draw attention to the recommendations which are considered most needed by the industry:
- Consumer protection in the event of airline insolvency, particularly measures for an orderly wind-down
 - Refunds from airlines when flights which are part of a package holiday are cancelled
 - Formalisation of Refund Credit Notes, an emergency measure which helped companies survive the pandemic and could be revived in future crises
 - Post-Brexit opportunities but in the context of continued protection of package holiday passengers
 - Clarification of Regulation 29 of the PTRs and an industry-level Code of Conduct.
- 5.2 The Committee believes that introducing the above measures would reduce the risk of further travel firm failures and help to rebuild consumer confidence in the sector. Members would appreciate a response to these requests in due course.

Appendix A – Constitution and Terms of Reference

Establishment and Role of the Committee

1. The Air Travel Insolvency Protection Advisory Committee ("the Committee") is established by the Secretary of State for Transport to advise on the financial protection arrangements for air travellers and customers of air travel organisers.

Composition of the Committee

2. Members of the Committee shall be drawn from members and/or officers of organisations representing various market sectors of the travel trade and independent representatives. The Chair and Deputy should always be independent representatives.

Trade

There will be up to ten members representing travel agents, tour operators, third party protection arrangers and airlines. Appointments shall be made in consultation with relevant trade associations. Each of the following trade associations and/or their successor bodies shall always have the right to be represented by one member:

Association of British Travel Agents (ABTA)

Association of Independent Tour Operators (AITO)

Association of Airline Consolidators (AAC)

Board of Airline Representatives in the UK (BAR UK)

Travel Trust Association (TTA)

Independent members

There will be up to ten independent members of whom one will be Chair. These members will include at least three consumer representatives and three representing consumer-focused organisations.

Civil Aviation Authority

The Chair of the Air Travel Trust, and one other member of the Civil Aviation Authority.

Appointments to the Committee

3. Members shall be appointed by the Chair of the Civil Aviation Authority (CAA), for periods specified at the time of appointment. Membership periods should normally be periods of 4 years. Members may resign at any time. The CAA Chair will consult the Chair of the Committee before appointing Members other than from the CAA.

4. Where an organisation is invited to provide a representative, then alternates should be nominated, in order that the organisation's views and contribution to the Committee's deliberations may at all times be made. Where the appointment is in their personal capacity, then alternates are not appropriate.

5. If the Chair of the CAA is satisfied that a member has been absent from meetings of the Committee for more than three consecutive meetings or is satisfied that a member is otherwise unable or unfit to discharge the functions of a member of the Committee the membership may be declared vacant.

Meetings of the Committee

6. The Committee shall determine its own procedures for and frequency of meetings, including any requirement for a quorum.

7. The Chair may set up working groups to consider and report on specific issues. Although such groups will normally be made up of Committee members the Chair may appoint others with particular expertise at his discretion.

Duties of Committee

8. The Committee shall keep under review and from time to time advise the CAA, the Trustees of the Air Travel Trust and the Secretary of State for Transport on the arrangements for the financial protection of air travellers and customers of air travel organisers.

9. In particular it shall:

- advise the Trustees, the CAA and the Secretary of State on policies they should pursue to protect consumers;
- advise the CAA and the Trustees on payment policy and the use of their discretion when making payments from the Trust (The Payment Policy);
- advise the CAA how they can promote awareness of ATOL protection to consumers and consumer expectations of protection;
- advise on agreements between the Trustees, the CAA and third parties such as credit card companies where there are no commercial sensitivity issues;
- advise on current market conditions, emerging market trends and, where appropriate, their potential impact on consumers and the financial protection arrangements; and
- advise the CAA and the Trustees on the financial viability of the ATT.

10. The Committee shall submit to the Secretary of State an Annual Report on its activities in each year ended 31 March within four months of the end of that year. The Committee shall draw to the Secretary of State's attention at any time matters of concern on which, in its view, action is necessary.

Administrative Arrangements

11. Reasonable out of pocket expenses directly incurred by Members of the Committee in attending meetings shall be reimbursed by the CAA.

12. The CAA shall provide administrative support to the Committee.

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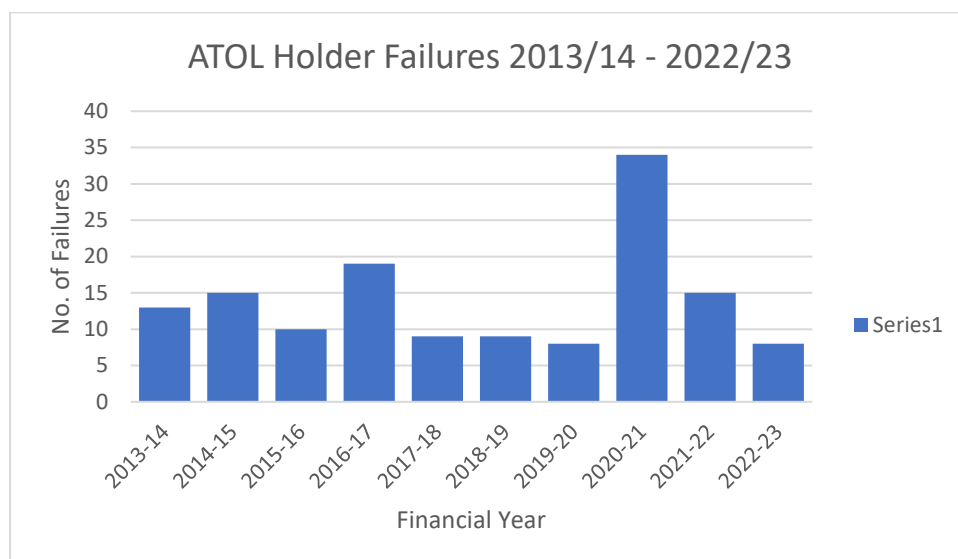
The Department of the Environment, Transport and the Regions April 2000

Amended by the Department for Transport July 2006

Amended by the Department for Transport September 2014

Appendix B – ATOL Holder Failures

The chart shows the number of ATOL holder failures from financial year 2013/14 to 2022/23.



To the end of March 2023 there were eight ATOL holder failures. This compared with fifteen in the previous reporting period and thirty-four in 2020/21.

ATOL Holder Failures 1 April 2022 – 31 March 2023

Date of Failure	ATOL Holder	ATOL Number	Consumers Affected (estimated)
29/06/22	Amaana Tours Ltd	10602	122 (62 bookings)
26/07/22	Onecall Travels Ltd	11146	42 pax (19 bookings)
26/07/22	Dream World Travel Ltd	9398	14,615 pax (6,816 bookings)
23/09/22	Arena Tours Ltd	10117	978 pax (626 bookings)
04/10/22	Live Holidays Ltd	6346	854 pax (365 bookings)
05/10/22	Explore Montenegro Ltd	10386	17 (24 bookings)
15/12/22	Fun Travel Ltd	6811	12 pax (2 bookings)
30/01/23	Sublime Travel Ltd	9557	100 pax (40 bookings)

Appendix C – ATIPAC Members

Detail of the backgrounds and areas of expertise of Committee members, are provided below:

Sandra Webber

Independent Representative and Chair

Sandra has been ATIPAC Chair since July 2018. Until recently she was also the Chair of the Water Alternative Dispute Resolution Panel which provides oversight of the water industry consumer redress scheme. She previously served as Director of Consumer Support at the CAA and before this worked at the Department for Transport where her responsibilities included aviation and the ATOL protection scheme.



Alan Bowen

Industry Representative

Alan qualified as a solicitor in 1982 and, after a number of years in private practice, joined ABTA as Head of Legal Services. For the last 20 years he has been the Managing Partner of AGB Associates which specialises in advising the travel industry. He represents the Association of ATOL Companies (AAC).



Roger Bray

Independent Representative

Roger is one of the UK's longest serving travel journalists and a former travel editor of London's Evening Standard. He was a passenger on Concorde's first commercial flight, covered the rise and fall of Laker Airways, various air disasters and the after effects of 9/11. He is the co-author of *Flight to the Sun* which explores the expansion of mass package tourism.



Marykay Fuller

CAA Representative

Marykay Fuller was appointed to the Board as a Non-Executive Director in January 2019. She is Chair of the Air Travel Trust Fund, and also serves as a member of the CAA Audit Committee, and CAA International Ltd Management Advisory Board. Marykay's executive career was in finance and consulting and she is a former senior advisory partner at KPMG LLP. Earlier in her career, she also worked for the US Government where she worked on numerous US airline restructurings and represented the Corporation on the National Airline Commission.



Prof. David Grant

Independent Representative

David is Emeritus Professor of Law at Northumbria University. He is the co-author of Holiday Law (Sweet & Maxwell) with Stephen Mason and Simon Bunce. He has written and lectured extensively on travel law.



Rachel Jordan

Industry Representative

Rachel is ABTA's Director of Membership and Financial Protection. Prior to this she worked within professional services at KPMG and EY. During this time she has advised some of the world's largest insurance companies on complex regulatory and risk matters, including global strategy, transformation and Brexit preparation. Prior to consulting, Rachel spent five years at the Financial Ombudsman Service - initially as a Senior Adjudicator, before being appointed as Ombudsman - where she acted as an independent point of liaison between consumers and financial businesses, to resolve disputes.



Noel Josephides

Industry Representative

Noel is Chair of Sunvil Holidays Ltd. He represents the Association of Independent Tour Operators (AITO), of which he is a Director. He is also the Chair of the ABTA membership committee.



Dale Keller

Industry Representative

Dale is the Chief Executive of the Board of Airline Representatives in the UK (BAR UK). He has 25 years' experience in the aviation, travel and tourism industries. He represents BAR UK on the Committee.



Gary Lewis

Industry Representative

Gary became Chief Executive Officer of The Travel Network Group in early January 2016 following a successful management buyout of the Group. He was instrumental in delivering the first CAA Franchise arrangement in 2003 which still today provides the basis for Travel Trust Association Members to gain individual ATOL membership.



Julia Lo Bue-Said

Industry Representative

Julia was appointed Advantage's Chief Executive Officer in 2018 and has a 25 year tenure with the business. Julia sits on both group and subsidiary Boards and under her leadership, profitability and shareholder value have grown. In September 2021, Julia was awarded The Travel Legend Award at The Travel Industry Awards in recognition of her part in leading the travel industry's recovery, driving change and representing the sector tirelessly through the Covid-19 pandemic.



Joel Reindorp

Industry Representative

Joel is Head of Legal (Litigation) at easyJet where he is responsible for commercial and consumer-related legal matters. He previously served in the legal team at Monarch Airlines, gaining key insight into the industry regime. He advised both in private practice and in-house prior to his move into airlines.



Paul Smith

CAA Representative

Paul was appointed to the board as Group Director of Consumers and Markets on 24 May 2018. Before joining the CAA, he was the Head of Policy at the Payment Services Regulator, part of the UK's Financial Conduct Authority, since January 2016. Paul has also previously held the position of Chief Executive of the Australian Energy Market Commission as well as a number of senior positions with Ofgem and Ofcom.



John Snyder

Industry Representative

John qualified as a Solicitor in 2000 and after secondments to various businesses such as B&Q plc, Superdrug plc and Virgin, he joined Carnival plc in 2004 where he is now General Counsel. Carnival is the largest cruise operator in the world and John's role includes dealing with legal issues relating to the operations of P&O Cruises, Cunard, Princess Cruises, Holland America Line and Seabourn cruise brands.



Bruce Treloar

Consumer Representative

Bruce is the Chartered Trading Standards Institute's Lead Officer for the Holiday & Travel Industry with 41 years of experience as a practising trading standards officer.



Kirsteen Vickerstaff

Industry Representative

Kirsteen is General Counsel and Company Secretary at On the Beach Group plc, where she has responsibility for legal, company secretarial, regulatory, risk management and insurance matters. On the Beach is one of the UK's leading online travel agents, specializing in beach holidays and is listed on the London Stock Exchange.



Lynette Williams

Consumer Representative

Lynette was called to the Bar in 2006 and shortly after began working in Staffordshire Trading Standards. Lynette started working for North Staffordshire and Stoke-on-Trent Consumer Service in 2017. She delivered consumer training to new and existing staff, as well as monitoring and assessing quality. Lynette moved to Citizens Advice in 2020. In her current role, Lynette is involved in making sure that all website content, learning materials and support resources are fully up to date and accurate. She is also responsible for monitoring future changes in the consumer landscape and preparing materials to reflect these changes.

