

Withdrawal of ADR Entity Approval Policy

CAP 1427



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Chapter 1

Purpose

- 1.1 This document provides stakeholders with guidance on our approach to ensuring compliance by alternative dispute resolution (ADR) entities that have been approved by us. It also outlines the framework that we will use when we become aware that ADR entities may not be compliant with our policy,¹ the ADR Regulations,² or the terms and conditions of their approval.
- 1.2 One of the CAA's roles is to be the Competent Authority for ADR in the aviation sector. This means that the CAA considers and decides whether to approve applications from select organisations wanting to handle complaints from aviation consumers. When organisations apply to be approved by the CAA as ADR entities, they provide information on their financial position, demonstrate that they have appropriate policies in place and will handle complaints in a way which conforms to our ADR policy. They also commit to comply with our policies in the future, for example by providing data to the CAA on a regular basis on the type of complaints handled and the outcomes of those complaints.
- 1.3 When ADR entities obtain their approval from the CAA they are issued with an approval document containing a number of terms and conditions, both standard ones and sometimes specific ones for that individual organisation.

¹ See CAA's Guidance for Applicants CAP 1324, www.caa.co.uk/CAP1324

² See consolidated ADR Regulations at:
<http://www.caa.co.uk/WorkArea/DownloadAsset.aspx?id=4294976198> (PDF)

Chapter 2

Scope

- 2.1 In this guidance when we refer to ‘consumers’, we mean the end users of an aviation service who do not themselves provide an aviation service. In the ADR context, consumers are those who use the ADR entities’ services in relation to their complaints against an airline or airport. ADR entities covered by this policy provide services to consumers (that are resident in the EU) who fly into and out of the UK.

Chapter 3

Definition of enforcement, breach and actions

- 3.1 Enforcement in this context is any activity that we carry out to seek to remedy a breach, or a suspected or potential breach of our ADR policies, the ADR Regulations or terms and conditions of approvals. A breach is a failure to comply with our policies, the ADR Regulations or terms and conditions of approvals.
- 3.2 There are a range of actions that we can take to secure compliance, including:
- Providing informal advice
 - Publishing guidance
 - Issuing warning letters
 - Requesting information
 - Securing formal commitments
 - Withdrawing our approval from ADR entities.

Chapter 4

Expectations

- 4.1 This section sets out what ADR entities can expect from the CAA when carrying out its compliance work and what the CAA expects from ADR entities. The CAA will:
- Deal with stakeholders in a professional and courteous way
 - Normally raise compliance issues with the ADR entity informally before taking further action. In some cases we might immediately move to formal action. This is likely to be in cases where there is significant consumer detriment and we judge that it can be remedied most effectively in this way
 - Take a consistent approach to our compliance work
 - Consider how best to bring organisations back into compliance rather than focusing primarily on penalising previous conduct
 - Have regard to the Regulators' code.³
- 4.2 We expect ADR entities to routinely comply with the law, our policies and the terms and conditions of ADR entity approvals. As part of this, ADR entities must be aware of their legal obligations and observe them as well as the terms and conditions of their approval.
- 4.3 As ADR is a new area for the CAA, our policies are developing and may change in order to meet our overriding objective of all consumers flying in and out of the UK having access to high quality ADR.⁴ When we change our policies we will give ADR entities a reasonable amount of notice to make any necessary changes for them to reach compliance.

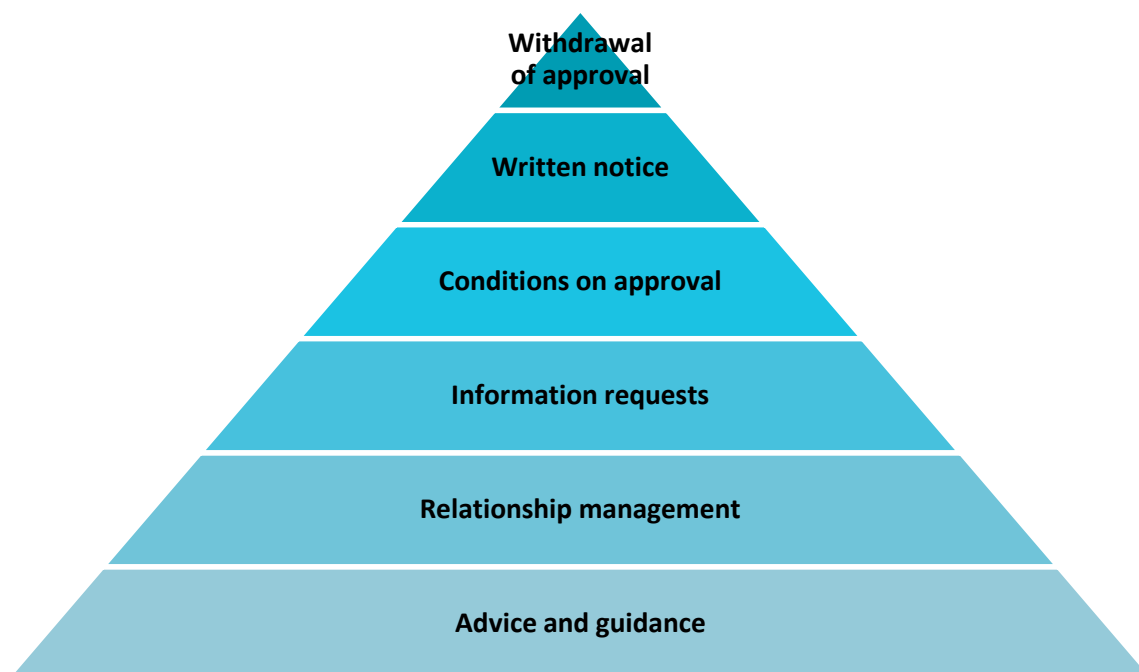
³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf

⁴ www.caa.co.uk/CAP1286, page 5

Chapter 5

Stages of enforcement

- 5.1 We aim to achieve the right balance of formal and informal approaches, depending on what is appropriate in the circumstances. Whilst withdrawal of our approval may be the appropriate response to the most serious breaches (of the ADR Regulations, our policies and terms and conditions of approval) we anticipate this will be the exception rather than the rule. The diagram below shows the range of tools available to us and, how we anticipate we may deploy those tools.
- 5.2 It should be noted that the diagram below is for illustrative purposes only. It is not intended to imply that there is a fixed order in which tools will be used. For example, informal dialogue could take place before formal guidance is issued and advice is provided. Alternatively, a very serious issue may warrant immediate formal action.
- 5.3 Our choice of approach will be guided by the seriousness of the issue, the type of action to which the ADR entity will best respond, and intelligence, including knowledge of the organisation's intent and past behaviour.



- 5.4 **Advice and guidance** – we will provide general information and guidance on our policies and will advise ADR entities if the CAA’s interpretation of the law changes.
- 5.5 **Relationship management** – we will have regular meetings with ADR entities, as well as keeping in contact by email and phone. During these contacts, we will raise concerns with ADR entities about any non-compliance, and will seek their commitment to resolve any issues.
- 5.6 **Information requests** – under the terms of approval we may request information from ADR entities to assist us in our oversight function in respect of ADR entity and airline obligations. For example, in regards to airlines we may wish to view individual complaint case files as part of our enforcement role.
- 5.7 **Conditions on approval** – if we have concerns about how an ADR entity is performing, we can impose additional conditions as part of its terms of approval. For example, if an ADR entity was not providing suitable information on an annual basis, we might impose conditions that data must be provided on a monthly basis. If we had concerns about the financial fitness of an ADR entity, we might impose conditions that protect consumer fees.
- 5.8 **Written notice** – the CAA will provide written notice to an ADR entity approved by us if we have reason to believe that the ADR entity no longer meets a requirement in the ADR Regulations, our policy or terms and conditions of its approval. (For example, if there are behaviours that demonstrate that the ADR entity is not acting in an impartial way when making decisions in cases.) The written notice will identify which requirement is no longer met and will require the ADR entity to meet the requirement promptly or in any event within three months of the date of the notice.
- 5.9 **Withdrawal of approval** - If the ADR entity fails to meet the requirement notified to it on or before the expiry of the period specified in the written

notice, and the CAA considers that the failure to meet the requirement is sufficiently serious, the CAA will send a written notice to the ADR entity of its intention to withdraw the ADR entity's approval. The ADR entity will have an opportunity to appeal the CAA's decision.

- 5.10 **Appeals process** – Our appeals process is set out in our [ADR entity approval process policy](#).⁵
- 5.11 **Removal of entity from approved list** – The CAA will then remove the ADR entity from the list maintained by it of approved ADR entities.
- 5.12 **Single Point of Contact sent revised list** – The CAA will then send the revised list of approved ADR entities to the Chartered Trading Standards Institute (CTSI is the Single Point of Contact – SPOC - for the UK).

⁵ www.caa.co.uk/CAP1426

Chapter 6

Prioritisation

In choosing where to target our action we will consider our prioritisation principles.⁶

⁶ www.caa.co.uk/CAP1233

Chapter 7

Process

In some cases there will be urgent issues that require a different response. These cases may be where there is an immediate risk to consumers because the ADR entity has not changed its behaviour, for example a conflict of interest, misleading information on the ADR entity's website or charging consumers more than the approved fee. There may also be situations where the CAA learns that the ADR entity is financially unstable.

Chapter 8

Publication of actions

- 8.1 We will publish our enforcement actions in accordance with the CAA Regulatory Enforcement Policy.⁷ In addition, we will remove ADR entities from the list of approved ADR entities that we publish on our website once our approval is withdrawn. We will also inform the Single Point of Contact for ADR in the UK which is CTSI.

⁷ www.caa.co.uk/CAP1326

Chapter 9

Complaints about the CAA's process

We operate a complaints procedure that allows stakeholders to provide feedback and comments regarding the activities of our case officers. Complaints and comments should initially be addressed to Richard Moriarty, Group Director of Consumers and Markets and Deputy Chief Executive at consumerenforcement@caa.co.uk. Where appropriate, complaints about the CAA can be escalated using the complaints process detailed on our website.⁸

⁸ <https://www.caa.co.uk/Our-work/Make-a-report-or-complaint/CAA-complaints-policy/>