

# ATIPAC

Annual Report 2014 - 2015





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# Introduction

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Dear Mr McLoughlin,

I have great pleasure in submitting the Committee's fifteenth Annual Report, for the year ended 31 March 2015.

Last year the Committee expressed disappointment at the slow progress being made towards agreement on the European Commission's Proposal for a New Directive on Package Travel. Since then, there has been significant movement. It is understood that the Directive is in the process of being finalised.

The Committee remains very concerned that provisions in the Directive which are designed to encourage cross-border trading could undermine effective consumer protection. The adoption of Place of Establishment of a tour organiser rather than Place of Sale to govern the country responsible for providing appropriate protection to consumers is confusing for customers, and places a significant administrative burden on the regulatory authorities in each Member State. In particular, mutual recognition of Member States' package travel regimes, including insolvency protection, requires the Commission having the will and the capability to enforce compliance. Furthermore, it requires the creation and maintenance of contact centres to assist customers in making claims; they will have to have multi-lingual and multi-jurisdictional expertise.



In implementing the Directive in the UK, the Government must under no circumstances water down the insolvency protection provided under the ATOL scheme, which has proved itself to be highly effective. Although it is governed by statutory regulations, it is funded by the travel industry and its customers. Implementation will require both speed and care so that the travel industry knows how it will be impacted and consumers continue to have confidence to book.

The Committee stands ready and willing to advise and assist the Government in defining the changes to the ATOL protection scheme that will follow from the adoption of the Directive. It is the only body in the UK that brings together both the travel trade and consumers, and the only body that specifically represents the consumer interest in air-based holiday travel.

The Committee has been further strengthened during the year by the appointment of six new members including four from consumer focused bodies and two travel industry representatives whose backgrounds are briefly outlined in Section 1 of this report. There is consequently a wealth of experience available to the Government and the Committee is ready to help the development of financial protection policy.

The Committee feels strongly that the revised Package Travel Directive represents a critical moment for consumer protection as decisions in the next 12 months will potentially shape the financial protection mechanism for the foreseeable future.

**John Cox OBE**

Chairman

# 1. The Role of ATIPAC

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The Committee's role is to provide informed advice to the Government and the regulatory authorities on the financial protection provided to consumers in the event of a holiday company's insolvency. Its Constitution sets out the role and membership of the Committee. The new Constitution and Terms of Reference, which were referred to in the 2014 Annual Report, were approved by the Committee at the 3 July 2014 meeting and by the Secretary of State for Transport in September 2014 (see Appendix 3). During the year the Committee was further strengthened by the appointment of four new independent and two trade members who represent a wide range of interests and experience. The Committee is currently well balanced between the travel trade and consumers.

The new members are Simon Cooper CEO at On the Beach, Helen Knapman Senior News Reporter at MoneySavingExpert.com, Keith Richards Chair of the CAA Consumer Panel, Mandy Round General Manager at easyJet holidays, Sue Russell Consumer Strategy Manager at Citizens' Advice and Sandra Webber Chair of the Water Services Disputes Panel.

The Committee's responsibility for advising on the financial protection arrangements for air holidays remains paramount. The aim is to not only incorporate trade, regulator and consumer representatives, but to expand the breadth of knowledge from all areas of the travel industry to enable us to provide informed counsel to the Civil Aviation Authority, the Air Travel Trust and the Secretary of State for Transport on financial protection for air travellers.





ATIPAC is a forum in which travel trade and consumer representatives combine to give informed, practical advice to the regulatory authorities. The next two years will be challenging, as the new Package Travel Directive will be finalised and implemented by each EU Member State, including the UK. As the principal source of advice on insolvency protection as it affects the consumer, the Committee will play its part by providing expert advice to the Secretary of State on the implementation of the Directive and on the detailed arrangements required to provide consumers with easy and effective access to the insolvency protection required.

The Committee's principal aim is to ensure that the revised UK insolvency protection regime will be as simple and accessible as it is currently under ATOL in the event that consumers are caught up in a tour operator insolvency. We shall be monitoring the UK's implementation of the Directive and providing input from the consumer and travel trade perspectives with particular focus on the following features of the new regime:

- The clarity of pre- and post-contractual information setting out consumer rights in the event of a tour organiser's failure. The maintenance of the ATOL brand signifying proper protection for consumers may prove to be an important component of the UK's implementation;
- The accessibility of the mechanism for arranging repatriation and/or refunds. This includes the administrative arrangements needed to advise and assist customers of failed tour operators based in other EU member states;
- The funding arrangements for any scheme that replaces the current ATOL regime, which should be sufficient and as appropriately managed as it is by the Air Travel Trust;
- The enforcement of the Directive's provisions must be prompt and effective so that the UK customers of tour operators established outside the UK enjoy insolvency protection every bit as good as applies to UK-based travel companies.

In summary, insolvency protection must be clear, easy to access and navigate by individual consumers, and appropriately funded.

## 2. The Package Travel Directive and the UK position

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The Committee has continued to closely follow developments and invited representatives of the Department for Transport and Business Innovation and Skills to a special meeting in September 2014 to update the Committee on the status of the Package Travel Directive. At this meeting the Committee reiterated its view that obligations on business to protect consumers should be defined and enforced “where the holiday was sold or offered for sale” rather than where the business was established primarily because the proposed directive appeared to offer a lower level of protection than provided by the current UK arrangements. However the BIS representative stated that although the issue had been raised this view conflicted with the principle of a single market and therefore had been rejected.

The Committee is pleased that at last a final draft version is now in trilogue. The Chair met with the Chair of the Committee on Internal Market and Consumer Protection (IMCO) (Mrs Vicky Ford MEP) and its Rapporteur (Frau Birgit Collin-Langen MEP) in Brussels in March to make final representations. The Committee feels very strongly that if “Place of Establishment” rather than “Place of Sale” is confirmed as the determinant for deciding who is responsible for providing appropriate protection to consumers then mutual recognition and enforcement procedures are vital. The Committee is also concerned how rules could be enforced on companies based outside the EU who sell holiday packages to UK consumers.

Further concerns relate to how Linked Travel Arrangements and “Flight-Plus” will be covered in PTD implementation, particularly in a free market where more protection is currently provided in the UK than in some other EU countries.

A sub-committee has been established to further investigate these concerns and it has been asked to report to the full committee prior to publication of the final text of the new Directive which is expected to be published in September. The Department for Transport (DfT) has indicated it is planning to launch a consultation in Autumn 2015 to understand how the UK travel protection regulations (including ATOL) should be reformed in light of the new European legislation. The Committee will respond to this consultation in due course.



### 3. Rebalancing ATOL

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In June 2014 the CAA issued a consultation document relating to proposals to rebalance the ATOL scheme. The CAA had performed an analysis of failures in recent years which showed that Small Business ATOLs (SBAs) represented a disproportionate number of failures and cost to the Air Travel Trust (ATT). It should be noted that SBAs are not required to provide any financial information. The CAA's key proposals included the abolition of SBAs, revised financial assessment and better scrutiny, partly as a result of training licensed practitioners in co-operation with accountancy bodies.

Some members felt strongly that the proposals were a disproportionate response to a relatively minor problem and would substantially reduce the number of travel organiser start-ups and increase administrative costs for current SBAs. As other members were generally supportive of the CAA's proposals a sub-committee was established to consider all the issues. However, as there was no consensus within the Committee it was decided that the various trade organisations represented should respond individually to the CAA.

On 4 March 2015 the CAA issued revised proposals which included retention of the SBA licence in a modified form. Key features include:

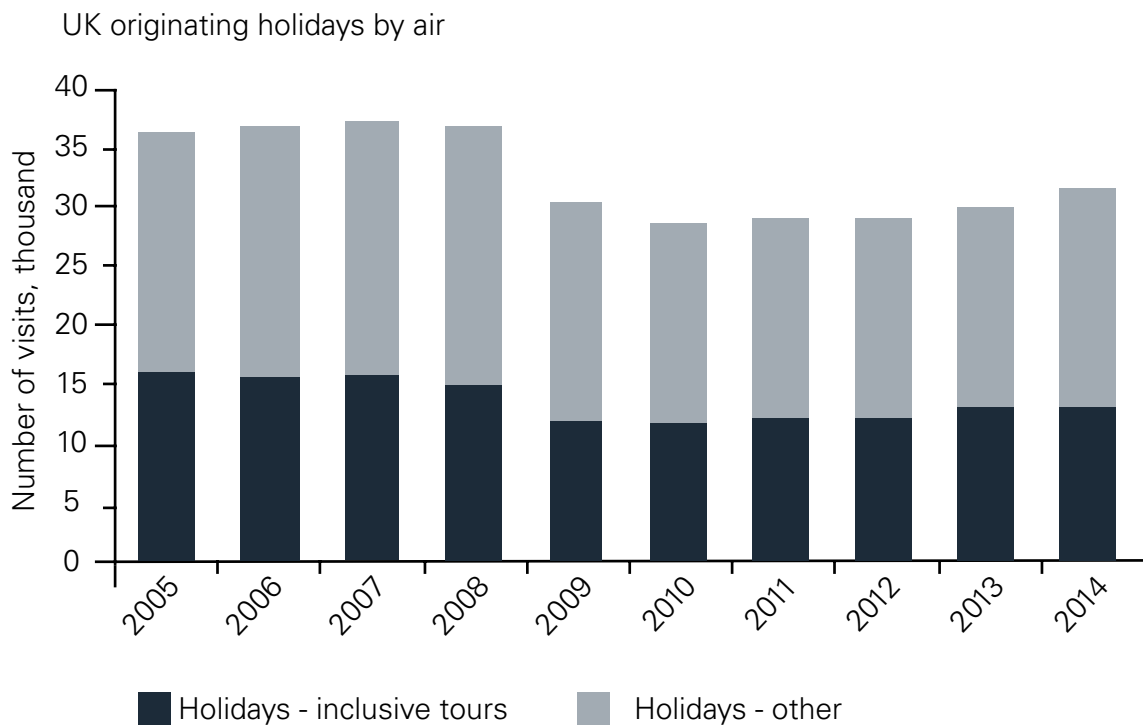
- All SBA holders will still have a 500 passenger limitation.
- All SBA holders will have to meet a basic solvency test.
- All SBAs will be limited to no more than £1million of ATOL turnover per annum.
- Firms which exceed this limit will need to become standard ATOL holders.
- All new SBA applicants will be required to have paid up share capital of £30,000.
- All new SBA applicants will be required to provide a minimum bond of £50,000.

In addition, all new standard ATOL applicants will be required to provide a minimum bond of £50,000. All these changes will come into effect from 1 October 2015.

## 4. Travel Industry in 2014 -15

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Market conditions in the first part of the year were difficult mainly due to flat demand and excess capacity in both the holiday and business airline sectors. Travel to Africa suffered due to the Ebola outbreak. Many consumers also had concerns about travel to the Middle East and Eastern Mediterranean including Egypt and Turkey. However, in subsequent months the situation improved, reflecting the strengthening economy and increasing consumer confidence. Lower fuel prices helped, but as most airlines had already hedged at higher prices the benefits have not flowed through to tour operators to any great extent. Despite these positive signs many consumers remain price sensitive and are shopping around for best prices.



Source - Office for National Statistics

## 5. Market outlook for 2015 - 16

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Market conditions have continued to improve and the positive trend is expected to continue following the UK General Election, and consumer confidence that the economic recovery is now well-established. Travel to the Middle East, Greece and Turkey has suffered due to consumer concerns, especially following the recent tragic events in Tunisia, but business in the Western Mediterranean in particular, is strong. The industry has welcomed the abolition of APD for children under 12 years of age from 1 May. Long haul destinations remain popular and the average price paid for holiday packages has increased.



## 6. Pack Peace of Mind

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The Committee continues to work with the CAA on future ATOL promotion activity. At the September 2014 meeting the CAA gave the Committee a presentation on the 2013/14 promotion activity and its impact, and on detailed proposals for 2014/15 which included a change to focus more on price-sensitive consumers.

The CAA subsequently informed the Committee that the Cabinet Office had approved expenditure of £600k on the current year's ATOL promotion campaign which was planned to include some TV advertising over the Christmas and New Year period.

This campaign focused on encouraging consumers to check for protection before booking and, following feedback from the Committee, it had given more prominence to the ATOL certificate.

At the February 2015 meeting the CAA presented the "Holiday Heaven & Holiday Hell" advertorials which had been carried by various newspapers. The Committee, while complimenting the CAA on the campaign, expressed the view that it was important that the momentum in awareness was not lost in awaiting Package Travel developments in Europe. The Committee also requested the CAA report to the May 2015 meeting on the impact of the campaign using data from the advertising agency and results of post-campaign market research.

### The statistics\* are going up

**71%** said they financially protected their last air holiday, up from 64%

**83%** are planning to financially protect their next holiday abroad

**9%** more people feel better informed, about the benefits of booking an ATOL protected holiday

#### **The ATOL certificate is more recognised.**

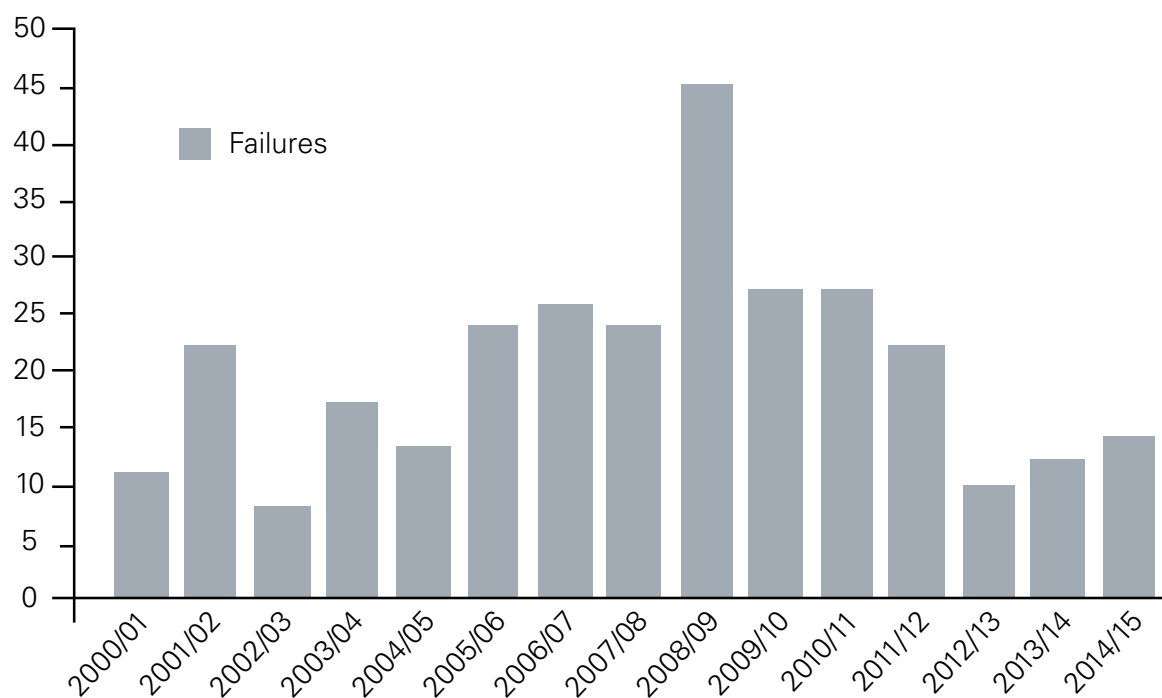
**55%** expect to receive an ATOL certificate when booking an ATOL protected holiday



## 7. Failures

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**Table 1: No of failed ATOL holders 2000 – 2015**



The performance of the travel industry has been generally positive although variable by sector and region and only fifteen relatively small ATOL holders failed in the year. Although the number is marginally higher than the previous year the impact on consumers and on the Air Travel Trust has been minimal and as a result the value of the Air Travel Trust Fund at the end of March 2015 was £90m.

Full details of all failures are at Appendix 1.

## 8. Conclusion

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The Committee remains very concerned that provisions in the new European Package Travel Directive which are designed to encourage cross-border trading could undermine effective consumer protection. The adoption of Place of Establishment of a tour organiser rather than Place of Sale to govern the country responsible for providing financial protection is confusing for consumers and places a significant administrative burden on the regulatory authorities in each Member State. The Directive requires mutual recognition of Member States' package travel regimes, including insolvency protection. It is not clear how compliance with the Directive in each Member State is to be enforced. It also requires the creation and maintenance of contact centres. These are not trivial issues.

In implementing the Directive in the UK, the Government must not water down the insolvency protection already provided under the ATOL scheme, which has proved itself to be highly effective. Although it is governed by statutory regulations, the costs of funding and administering the scheme are borne by the travel industry and its customers. Implementation will require both speed and care so that the travel industry knows how its business processes and finances will be impacted and consumers continue to have confidence to book.

The Committee stands ready and willing to advise and assist the Government in defining the changes to the ATOL protection scheme that will follow from the adoption of the Directive. It is the only body in the UK that brings together both the travel trade and consumers, and the only body that specifically represents the consumer interest in air-based holiday travel.





## APPENDIX 1

# Details of ATOL holder failures April 2014 - March 2015

ATOL holder name	Date of failure	Licensed passengers	Security provided	Number of passengers repatriated	Cost of repatriation	Expected number of passengers to refund	Estimated Refund cost	Estimated Total expenditure	Estimated call on Air Travel Trust
			£'000		£'000		£'000	£'000	£'000
<b>Mapmart Ltd</b>	09 Apr 2014	3,600	0	0	0	1,800	997	1,005	1,005
<b>Air Parade Ltd</b>	14 May 2014	4,105	0	0	0	2,000	1,003	1,003	1,003
<b>Star &amp; Key Travel Ltd</b>	17 June 2014	500	20	0	0	132	269	270	250
<b>Sikdar N A</b>	17 June 2014	500	0	0	0	15	9	9	9
<b>Mr S Bent t/a Bents Bicycle &amp; Walking Tours</b>	15 Aug 2014	500	0	16	6	128	117	127	115
<b>Timeless Travel Ltd</b>	22 Aug 2014	500	10	4	4	107	172	179	169
<b>GBCE Ltd</b>	29 Aug 2014	500	30	257	17	501	600	651	621
<b>Lorenz Voyager Travel Co Ltd</b>	29 Aug 2014	9,565	31	180	53	1,383	732	830	830
<b>Clippers Quay Ltd</b>	30 Sep 2014	501	40	0	0	0	0	0	0
<b>Worldbound Travel Ltd</b>	30 Sep 2014	500	0	0	0	80	61	62	22
<b>Liberty Travel (UK) Ltd</b>	03 Oct 2014	2,900	0	0	0	2	15	16	16
<b>Bookable Holidays Ltd</b>	17 Oct 2014	5,315	0	0	0	515	144	150	150
<b>Air Fast Tickets Ltd</b>	25 Nov 2014	631	70	0	0	20	6	7	0
<b>A List Flyers Ltd</b>	10 Dec 2014	500	0	0	0	2	9	9	9
<b>Airliner Ltd</b>	22 Jan 2015	3,525	0	70	52	1,100	1,750	1,820	1,296
			<b>201</b>	<b>527</b>	<b>138</b>	<b>7,785</b>	<b>5,884</b>	<b>6,168</b>	<b>5,525</b>

## **APPENDIX 2**

# Members: April 2014 - March 2015

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### **John Cox OBE**

John Cox has been Chairman of ATIPAC since its formation in April 2000. He is also the industry representative to the Air Travel Trust and a past Chairman of the Air Transport Users Council.



### **Roger Allard**

A founding partner and director of First Choice plc where he served for 20 years. He is currently Chairman of All Leisure Group plc and is also on the Board of ABTA (Association of British Travel Agents) and represents them on the Committee.



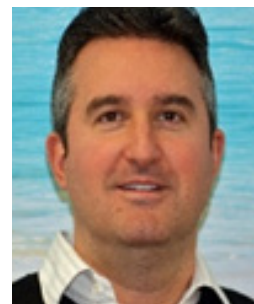
### **Roger Bray**

Freelance journalist with a consumer focus. He is an independent member.



### **Simon Cooper**

Chief Executive Officer at On the Beach.



**Uday Dholakia OBE**

Senior Partner at Global Consulting UK Ltd. He is an independent member with an interest in better regulation and enterprise promotion.



**Prof. David Grant**

Emeritus Professor of Law at Northumbria University and Editor of the Travel Law Quarterly. He is an independent member.



**Richard Jackson**

Group Director of the Consumer Protection Group, Civil Aviation Authority. He is also a CAA Board Member and a Trustee of the Air Travel Trust. He represents the CAA.



**Dale Keller**

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.



**Helen Knapman**

Senior news reporter at MoneySavingExpert.com who has written numerous articles on various consumer travel issues. She is an independent member.



**Gary Lewis**

Managing Director of the Travel Trust Association (TTA) and The Travel Network Group.



**Alisdair Luxmoore**

Founder and Director of Fleewinter Ltd. He represents the Association of Independent Tour Operators (AITO). He is a member of the AITO Council, sits on the AITO Industry Issues Group and the Website Development Work Group.



**Michael Medicott**

Non-executive member of the Civil Aviation Authority and Chairman of the Air Travel Trust.



**Keith Richards**

Chair of the CAA Consumer Panel, which provides advice to the CAA on how its regulatory activity affects consumers. He is a barrister who has previously worked for ABTA and Which?



**Mandy Round**

General Manager easyJet holidays.



**Sue Russell**

Consumer Strategy Manager at Citizens' Advice with national responsibility for consumer strategy with a particular interest in travel consumers.



**Bruce Taylor**

Director at Emerald Global Ltd. He represents the Association of ATOL Companies (AAC).



**Bruce Treloar**

Chartered Trading Standards Institute Lead Officer for the Holiday & Travel Industry. He represents consumer interests.



**Rochelle Turner**

Head of Research for the World Travel & Tourism Council. She represents consumer interests.



**John de Vial**

Head of Financial Protection for ABTA . John is a Trustee of The Travel Foundation and ABTA LifeLine and Chairs the Advisory Committee of the International Centre for Responsible Tourism.



**Sandra Webber**

Chair of the Water Alternative Disputes Resolution Panel (providing oversight of the water industry consumer redress scheme) and Financial Services Ombudsman.



## **APPENDIX 3**

# Constitution and terms of reference

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### **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.

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





