Draft Joint Written Evidence

CIVIL AVIATION (CONSUMER PROTECTION AND REGULATORY REFORM) BILL [HL]

Joint written evidence submitted by:

Flightright GmbH
AirHelp
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Summary

1. The signatories are companies and law firms operating in the field of air passenger rights and compensation. Collectively, they assist passengers in understanding and enforcing rights arising from flight delay, cancellation and denied boarding, including rights under Regulation (EC) No 261/2004 as assimilated into UK law ("UK261"). Together, they have assisted a high six-figure number of UK passengers with claims under UK261.
2. This submission concerns principally clauses 1 to 3 of the Bill and the consequences of the framework created for future regulation of passenger rights.
3. The Bill does not itself reduce existing UK261 compensation rights. It does, however, confer a broad power capable of being used subsequently to alter substantive passenger rights, enforcement mechanisms, and dispute-resolution arrangements. With limited exceptions relating to criminal offences and CAA financial penalties, regulations made under clause 1 are presently subject to the negative resolution procedure. [1]
4. The signatories recommend four core safeguards, in the following order of priority:
    - Parliament should retain the central role in determining substantive passenger rights, with fundamental changes made through primary legislation and delegated powers confined to clearly defined technical, administrative and implementation matters;
    - There should be no risk to passengers' protection or their rights, (or Passengers' rights should be protected…) including entitlements to compensation, reimbursement, rerouting and care, and the practical ability to exercise those rights;

[1] UK Parliament

- Passengers should remain free to pursue claims independently or through an authorised representative, subject to applicable legal requirements and consumer safeguards.

5. These safeguards should be supported by meaningful consultation, published impact assessment, protection of accrued claims and effective access to ADR and civil proceedings.

About the signatories and relevant interest

6. The signatories assist air passengers in pursuing compensation and other remedies arising from disrupted air travel. Their activities include assessment of entitlement, communication with airlines, collection and evaluation of evidence and, where appropriate, facilitation of legal enforcement.
7. The signatories therefore have substantial practical experience of the circumstances in which apparently straightforward compensation claims become disputed. These include questions concerning the cause and duration of disruption, extraordinary circumstances, reasonable measures, connecting itineraries, cancellation notice, denied boarding, rerouting, and the identification of the applicable legal regime. Their experience also includes procedural difficulties, including requirements to use airline-specific claim forms before legal proceedings and unclear or inconsistent information provided before or during litigation
8. The signatories also have a commercial interest in this field because their businesses derive revenue, directly or indirectly, from assisting passengers with claims. That interest is stated expressly so that the Committee can assess this evidence in its proper context.
9. Subject to verification across all participating companies, the signatories collectively assisted a high six-figure number of UK passengers in claims falling within UK261 between 1 January 2021 and 15 October 2026.

Clause 1: scope of the delegated power

10. Clause 1 permits regulations concerning the rights of persons purchasing or using air transport services and expressly encompasses refusal of boarding, delay, and cancellation. It also permits provision concerning dispute resolution, compensation or redress, CAA directions, and enforcement.
11. The scope is therefore capable of extending beyond technical implementation. Future regulations could, depending on their terms, alter matters such as the conditions for compensation, calculation of compensation, substantive exclusions or defences, and the procedure by which an individual passenger pursues redress.

12. Clause 1 currently distinguishes the applicable Parliamentary procedure principally by reference to the type of enforcement sanction. Regulations providing for criminal offences or CAA financial penalties require approval by both Houses. Other regulations under clause 1 are subject to annulment by either House.
13. One consequence of that drafting is that a regulation materially altering the substance of an individual passenger's compensation entitlement could fall within the negative procedure even though regulations creating certain enforcement sanctions require affirmative approval.
14. The signatories recommend narrowing clause, 1 so that substantive changes to core passenger entitlements require primary legislation. Delegated powers should be confined to clearly defined technical, administrative, and implementation matters. Any retained delegated powers capable of materially affecting passenger rights should require affirmative approval by both Houses.

15. Negative approval is an important safeguard but does not provide the same opportunity to amend individual provisions as the primary legislative process. Stronger scrutiny of secondary legislation should therefore complement, rather than replace, Parliament's role in shaping the core framework.

Preserving existing protection and legal certainty

16. UK and EU passenger-rights regimes may develop differently. Further divergence could leave passengers travelling on the same route with different entitlements depending on the operating carrier and the applicable legal regime. Travellers cannot reasonably be expected to navigate these distinctions when booking or seeking redress. Future UK reform should therefore avoid unnecessary divergence while preserving at least the existing level of passenger protection. Any impact assessment should expressly examine the effects on legal certainty, passenger understanding and effective access to remedies.
17. The Regulatory Policy Committee has itself noted the potential for consumer confusion and disadvantage arising from disparities between UK and EU passenger rights and considered that further evidence on those effects would assist assessment of future reform. [2]
18. Future proposals should therefore be assessed by reference to the passengers and claims affected, rather than nationality alone, while preserving existing protection. Compensation, reimbursement, rerouting and care address different consequences of disruption and should each be safeguarded.

19. The signatories recommend amending clauses 1 and 3 to provide that regulations under clause 1 must not reduce existing passenger protection. The safeguard should

[2] GOV.UK

cover compensation levels, eligibility conditions, exclusions and the practical ability to obtain remedies, as well as reimbursement, rerouting and care. Clause 3's requirement to have due regard to the desirability of strengthening rights should be supported by an express non-regression safeguard.

Consultation and evidence before substantive reform

20. Clause 2 requires the Secretary of State to begin a consultation process within 12 months of Royal Assent. Its expressly identified subjects include assistance for disabled passengers and passengers with reduced mobility, allergies, complaints procedures and suitable wheelchairs, together with other matters considered by the Secretary of State to be of particular importance.
21. The clause does not contain an express requirement for a separate consultation whenever the Government proposes materially to alter the general compensation architecture under UK261.
22. That distinction is relevant in light of the Department for Transport's previous work. In its 2023 response to the aviation consumer policy consultation, the Government recorded competing views and "significant complexities" concerning reform of compensation for domestic disruption. It concluded that more work was required and committed to further consultation on the compensation and payment framework across cancellations, delays, and denied boarding. [3]
23. The 2023 exercise illustrates the breadth of the issues that can arise. Respondents identified questions concerning the relationship between ticket price and passenger inconvenience, deterrence, administrative burden, connectivity, differential treatment between passengers, and potential confusion where different compensation systems apply. The Government did not commit at that stage to implementing the proposed domestic compensation reforms.
24. The 2026 Regulatory Policy Committee assessment is also relevant. It records that the present Bill has no immediate quantified regulatory impact because the future policies which may be implemented using the delegated power are not yet known. It states that the costs and benefits of subsequent changes are expected to be assessed when secondary legislation is developed, while noting that further evidence on the scale of future impacts would be valuable.[4]
25. The signatories recommend that the Bill require consultation, a published impact assessment and an explanation of how responses have informed the proposals before any retained delegated powers are used to make material changes affecting passenger rights. Consultations should expressly include passenger and consumer organisations and organisations with practical experience of enforcing passenger rights.

[3] GOV.UK

[4] GOV.UK

Assessments should address disabled passengers and passengers with reduced mobility. These requirements should complement rather than replace, primary legislation for substantive changes to core entitlements.

Existing claims and transitional provisions

26. Clause 1 expressly permits regulations to include consequential, supplementary, incidental, transitional or saving provision.
27. Material changes to passenger rights could therefore require a clear decision about claims arising before commencement. Different possible transition points include the date of the flight disruption, the date upon which a passenger first notified a claim, the date a representative was instructed, commencement of ADR, issue of proceedings or the commencement date of the new regulations.
28. Lack of clarity on that issue could create materially different outcomes for passengers affected by the same underlying disruption merely because their cases happen to be at different procedural stages.
29. The signatories recommend an express safeguard for rights accrued before new rules take effect. Future regulations should clearly address accrued claims, existing lawful assignments and authorities, pending ADR matters and civil proceedings. Passengers affected by the same disruption should not lose existing substantive protection merely because their claims are at different procedural stages.

Enforcement, representation and access to redress

30. The Bill strengthens the CAA's consumer enforcement powers. However, public regulatory enforcement and the determination of an individual passenger's entitlement perform different functions. The former may address systemic non-compliance; the latter may require resolution of disputed facts and legal questions concerning a particular journey.
31. Clause 1 does, however, permit future regulations to make provision for resolution of disputes and membership of complaint, dispute-resolution or redress schemes.
32. If a mandatory ADR or Ombudsman framework is developed, it should expressly safeguard passengers' choice to act independently or through an authorised representative. Airline complaint procedures and dispute-resolution schemes should accommodate authorised representation without unjustified procedural barriers or less favourable treatment. Passengers choosing professional assistance should benefit from informed consent, transparent fees and appropriate consumer safeguards.
33. Future arrangements should also address limitation periods while ADR is pending, provide decisions with sufficient reasons and information to understand and challenge the outcome, and clarify the effects of settlements and determinations on subsequent

proceedings. ADR should not deprive passengers of effective access to the courts or cause them to lose claims through expiry of limitation periods while using the scheme.

34. The Commons amendment paper dated 10 September 2026 contains a proposed new clause establishing an Independent Aviation Ombudsman. It expressly contemplates complaints brought by passengers or persons acting on their behalf. The signatories support this express recognition of representation and recommend that an equivalent safeguard apply across future complaint and redress arrangements. The proposal is an amendment, not a guarantee already contained in the Bill. [5]

Recommendations to the Committee

35. The signatories recommend that the Committee amend the Bill to secure the following safeguards
    a. Preserve Parliament's central role by requiring primary legislation for substantive changes to core passenger entitlements, narrowing delegated powers to defined technical and implementation matters, and requiring affirmative approval for any retained powers capable of materially affecting rights;
    b. Prohibit reductions in existing passenger protection, such as compensation entitlement, calculation, substantive eligibility, limitation periods, or access to individual redress;
    c. Expressly protect passengers' choice to pursue claims independently or through an authorised representative, without unjustified barriers or less favourable treatment; and
    d. Require meaningful consultation and published impact assessments before material regulations are introduced, protect accrued rights and pending claims, and safeguard redress, limitation periods and access to civil proceedings.
36. These safeguards would allow improvements in passenger protection and claims procedures while ensuring that fundamental changes remain a matter for Parliament. They would preserve a clear statutory baseline and protect both future passengers and those whose rights have already been accrued.

Submitted jointly by:

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[5] UK Parliament

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References

1. Civil Aviation (Consumer Protection and Regulatory Reform) Bill [HL], Bill 132 (2026–27), particularly clauses 1–3.
2. Department for Transport, *Response to the Aviation Consumer Policy Reform Consultation*, 27 June 2023.
3. Regulatory Policy Committee, *Aviation consumer rights: transport vires and reform power*, published 12 June 2026.
4. House of Commons, *Civil Aviation (Consumer Protection and Regulatory Reform) Bill [HL]: Amendment Paper*, 10 September 2026.

Proposed amendments to preserve passenger protection

Civil Aviation (Consumer Protection and Regulatory Reform) Bill [HL]

14 October 2026

These proposals give effect to the joint submission. They preserve Parliament's role and at least the existing level of passenger protection, alongside representation, consultation and access to redress.

1 Limiting delegated powers

Clause 1, page 2, line 9, at end insert:

"(2A) Regulations under this section must not alter the substantive entitlements of passengers arising from refusal of boarding or carriage, delay or cancellation.
(2B) Subsection (2A) does not prevent provision concerning the technical or administrative implementation or enforcement of those entitlements, provided that it does not reduce their substance or passengers' practical ability to exercise them."

This amendment reserves substantive changes to core flight disruption entitlements to primary legislation while permitting technical and administrative implementation and enforcement.

2 Preserving at least the existing level of protection

Clause 3, page 4, line 39, at end insert:

"(3) Regulations under section 1 must preserve at least the level of passenger protection afforded by law immediately before the day on which this Act is passed.
(4) Subsection (3) applies to substantive entitlements, including compensation, reimbursement, rerouting and care, and to passengers' practical ability to obtain and enforce remedies."

This amendment would preserve at least the existing level of passenger protection, including distance-based compensation system. Comparable disruption causes comparable inconvenience regardless of the fare paid. It would protect both substantive entitlements and effective access to remedies.

3 Approval by both Houses

Clause 1, page 2, line 41, leave out subsections (6) and (7) and insert:

"(6) A statutory instrument containing regulations under this section may not be made unless a draft has been laid before, and approved by a resolution of, each House of Parliament."

This amendment subjects all regulations under clause 1 to the affirmative procedure. It has the same intended effect as tabled amendments 8 and 9 and supplements amendment 1.

4 Passenger representation

To move the following new Clause:

“Passenger representation
(1) A passenger may pursue a complaint or claim arising from air transport services independently or through an authorised representative.
(2) Air transport service providers, airport operators and persons administering complaint or redress schemes must accommodate authorised representation without unjustified barriers or less favourable treatment.
(3) Requirements for verifying authority must be necessary and proportionate.
(4) Nothing in this section displaces applicable consumer protection requirements, authorises reserved legal activities otherwise than in accordance with law, or restricts lawful assignments of claims.
(5) “Air transport service”, “air transport service provider” and “airport operator” have the meanings given by section 1(8).”

This new clause protects passengers’ choice of representative while preserving consumer safeguards, applicable legal requirements and lawful assignments.

5 Consultation and impact assessment

A. Clause 2, page 4, line 14, at end insert—

“(ba) organisations representing air passengers and consumers,
(bb) organisations with practical experience of assisting passengers to obtain or enforce redress,”

B. Clause 2, page 4, line 20, at end insert—

“(5) Before making regulations under section 1 materially affecting passenger rights procedures or enforcement, the Secretary of State must—
(a) consult the persons mentioned in subsection (4);
(b) publish an assessment of the effects on passenger protection and access to redress, including for disabled persons, persons with reduced mobility and passengers using authorised representatives; and
(c) publish a response explaining how consultation evidence informed the regulations.
(6) Where a draft instrument is laid under section 1(6), the assessment and response must be laid at the same time.”

These linked amendments require inclusive consultation, an impact assessment and a published response before material procedural or enforcement changes. They complement primary legislation for substantive changes.

6 Existing claims and access to the courts

Clause 1, page 2, line 39, at end insert—

“(4A) Regulations under this section must not extinguish or reduce passenger rights accrued before their commencement.
(4B) Regulations affecting complaint or redress procedures must expressly address existing claims, lawful assignments and authorisations, pending dispute resolution and civil proceedings.
(4C) Regulations must preserve effective access to civil proceedings and ensure that completing a mandatory complaint or dispute resolution procedure does not cause a claim to become barred by limitation or prescription.”

This amendment protects accrued rights and pending claims, preserves access to the courts and prevents mandatory procedures causing claims to become time-barred.