

Guidance for an applicant or holder of an ATOL on the procedure for a decision pursuant to Parts 4 and 5 of the Civil Aviation (Air Travel Organisers' Licensing) Regulations 2012

CAP 1319



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Introduction

Where CPG consider a decision should be made to grant, refuse to grant, revoke or suspend an ATOL or to vary the terms of an ATOL without a request from or the agreement of the applicant or holder of an ATOL, CPG must first make a proposal to do so.

Such decisions may only be taken by a Panel of one or more CAA Board Members ('CAA Panel').

A proposal is, in effect, a recommendation to the CAA Panel that a particular decision be made. The ATOL applicant/holder will have an opportunity to submit its own representations on CPG's proposal.

Before reaching a decision, the CAA Panel must consider, in addition to the proposal from CPG, any arguments and evidence put forward by the affected applicant or holder of an ATOL.

Where CPG intend to provisionally vary the terms of an ATOL, CPG must first make a recommendation to a CAA Panel.

A decision to provisionally vary the terms of an ATOL may be made by a CAA Panel without consideration of representations from the ATOL holder.

The procedures for a decision are set out in Part 4 (Annex A) and Part 5 (Annex B) of the Air Travel Organiser's Licensing Regulations 2012 ('the ATOL Regulations').

The remainder of this guidance reflects the procedure for a decision under Part 5 of the ATOL Regulations.

The proposal

CPG makes a proposal by sending out a notice in the form of a written proposal (the proposal letter).

The proposal letter will provide the applicant/holder with at least 21 days notice of the date on which a CAA Panel will make such a decision.

A proposal letter is, in effect, a recommendation to the CAA Panel to make the proposed decision and the reasons why CPG is making that recommendation.

The proposal letter

The proposal letter from CPG should include:

- CPG's reasons for the proposal;
- any documents supporting the proposal and other relevant evidence; and
- the date by which the applicant/holder must serve their written representations. This will normally be 10 days from the date of the proposal letter.
- the name of the Hearing Manager at the CAA to whom the applicant/holder's written representations should be sent; and
- the date on which a hearing will be held. This will be the earliest practicable date at least 21 days after the date of the proposal letter.

Written representations

Where the ATOL applicant/holder disagrees with the proposal from CPG, it should send written representations to the Hearing Manager explaining its reasons. This must normally be done within 10 days from the date of the proposal letter, unless a CAA Panel has agreed to an extension of time (see Section 5).

The written representations of the applicant/holder should include:

- a response to CPG's reasons for the proposal;
- any documents supporting the response and other documentary evidence the applicant/holder wants the CAA Panel to take into account (if not already attached to the proposal letter);
- a request for a hearing, if one is wished for (and confirmation whether the applicant/holder intends to attend that hearing).
- if the applicant/holder wants a hearing but cannot attend on the day set out in the proposal letter, it should inform the Hearing Manager as soon as practicable; and
- any arrangements the CAA needs to make to ensure the applicant/holder can access the hearing (such as interpreter, restricted mobility access, etc).

Extensions of time

The CAA Panel may agree to extend any time limit imposed by Part 5 of the ATOL Regulations. A request for an extension of any time limit from CPG or the applicant/holder must be sent in writing to the Hearing Manager as soon as practicable. The CAA Panel may extend a time limit where it considers that it is reasonable to do so, or where not extending the time limit would result in substantial injustice.

What happens if I do not respond?

If the ATOL applicant/holder does not respond to the proposal letter, the Hearing Manager will notify the CAA Panel. Following considerations of the representations received from CPG, the CAA Panel Members may decide to make a decision without a hearing.

Where the CAA Panel do not wish to make a decision without a hearing, notice of the hearing will still be sent to the ATOL applicant/holder who then has the right to attend and make oral representations at the hearing.

Expedited procedure for suspending an ATOL

CPG may suspend an ATOL at short notice by following the expedited procedure described at Annex C.

How do I respond if I disagree with the proposal?

Written representations should be sent to the Hearing Manager explaining the reasons for objecting to the proposal (see Section 4).

Written representations must be sent 10 days from the date of CPG's proposal letter, including the date it was sent, unless a CAA Panel has agreed to an extension of time (see Section 5).

Holding a hearing

The ATOL applicant/holder may request a hearing at which it may choose to be present by sending a written request to the Hearing Manager. This is done at the same time as written representations are delivered.

In the absence of such a request, the CAA Panel may still choose to hold a hearing if it considers it appropriate to do so in order to make the decision. Both parties will be invited but the hearing will proceed with only CPG present if the applicant/holder does not attend.

Who may attend a hearing

Both CPG and the applicant/holder can attend and/or be represented at the hearing. The Hearing Manager must be notified in writing of the identity and role of any representatives as soon as practicable and in any event, prior to the day of the hearing. This is to enable the Hearing Manager to make the necessary administrative arrangements, such as allocating security passes.

Evidence for the hearing

Before a hearing, the CAA Panel may consider further evidence received from CPG in addition to the proposal letter, or from the ATOL applicant/holder in addition to the written representations.

Where CPG wishes to rely upon any further evidence, it must be sent to the Hearing Manager as soon as practicable after receipt of the applicant/holder's written representations. The Hearing Manager will then send this evidence to the applicant/holder and to the CAA Panel at least 3 days before the date of the hearing.

Where, after considering the proposal letter and any written representations, the CAA Panel has any questions for CPG or the applicant/holder prior to the hearing, they will ask the Hearing Manager to send these questions to the relevant party and to copy them to the other party. The Hearing Manager will then circulate any responses to all parties as soon as practicable and before the hearing date.

The Hearing Bundle

A Hearing Bundle will be prepared by the Hearing Manager comprising one or more of:

- the CPG proposal letter with supporting documents and any other evidence;
- the written representations of the applicant/holder with supporting documents and any other evidence;
- any additional information or evidence submitted by the parties and accepted by the CAA Panel;
- answers to questions posed by the Panel in writing.

CPG and the ATOL applicant/holder will be supplied with a copy of the Hearing Bundle by the Hearing Manager as soon as practicable and before the hearing date.

Additional material

In most cases, any additional material that the ATOL applicant/holder wishes to submit after the expiry of 10 days from the date of CPG's proposal letter will be considered by:

- CPG, who will consider whether this further material affects the basis of the proposal (which may need to be withdrawn or supplemented with further information to the CAA Panel making the decision); and
- the CAA Panel.

The submission of any significant new material by one party close to the hearing date (outside the 10 day limit) may require an adjournment of the hearing to a later date to enable adequate consideration by the other party and the CAA Panel of that material.

Attending the hearing

A hearing may be attended by:

- a) The CAA Board Member(s) comprising the CAA Panel;
- b) A CAA legal adviser providing legal advice to the CAA Panel (CAA Panel Lawyer);
- c) A technical assessor, where one has been appointed by the CAA Panel;
- d) The ATOL applicant/holder;
- e) A legal adviser or other representative of the applicant/holder;
- f) Witnesses requested by the applicant/holder to give evidence;
- g) CPG employee/s responsible for the proposal letter;
- h) A CAA legal adviser providing legal advice to CPG;
- i) Witnesses requested by CPG to give evidence;
- j) The Hearing Manager;
- k) A shorthand writer;
- l) Interpreters (if required);
- m) Members of the public unless the hearing is to be in private (see Section 15).