

Proposed Aviation Customer Rights Charter—Feedback

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Comments on the Aviation Customer Rights Charter

Proposed Aviation Customer Rights Charter

The six proposed rights are supported in principle. If delivered and acted upon they will enhance the aviation experience of passengers who have a disability.

The **Background** chapter of the *Aviation Industry Ombuds Scheme and the Aviation Customer Rights Charter* states that existing rights of aviation customers are protected under Australian Consumer Law.

Aviation customers have existing legal rights and protections under the Australian Consumer Law (ACL), enacted through the Competition and Consumer Act 2010 (Cth).

This statement is correct but understates the legal rights and protections available to aviation customers. State and Territory Human Rights and Anti-Discrimination Acts define further existing customer rights and should be mentioned in the Charter. The rights of customers with a disability are further protected by the Disability Discrimination Act (Cth) and its Disability Standards. Both industry and public should be fully aware of these existing rights.

The United Nations' *Convention on the Rights of Persons with Disabilities* (CRPD)^{1,2} defines the fundamental human rights of people with disability. Australia signed the CRPD on 30 March 2007, ratified the CRPD on July 17 2008 and ratified the Optional Protocol on 30 July 2009³. These ratifications are quite significant as is stated on the Federal Attorney General's website⁴:

In Australia, the *Convention on the Rights of Persons with Disabilities* (CRPD) is incorporated through legislation, policy and programs at federal, and state and territory levels. Implementation

¹ Convention on the Rights of Persons with Disabilities (CRPD)

<https://social.desa.un.org/issues/disability/crpd/convention-on-the-rights-of-persons-with-disabilities-crpd>

² Australian Human Rights Commission

<https://humanrights.gov.au/our-work/disability-rights/united-nations-convention-rights-persons-disabilities-uncrpd>

³ International disability rights

<https://www.dss.gov.au/our-responsibilities/disability-and-carers/program-services/government-international/international-participation-in-disability-issues#:~:text=UN%20Convention%20on%20the%20Rights%20of%20Persons%20with%20Disabilities&text=On%2030%20March%202007%2C%20Australia,CRPD%20and%20the%20Optional%20Protocol.>

⁴ Federal Attorney General

<https://www.ag.gov.au/rights-and-protections/publications/australian-government-implementation-article-33-crpd>

of the CRPD is a whole of government responsibility; this means that agencies at federal, state and territory levels play a part in implementing the articles of the CRPD within their portfolios.

While not legislation, the CRPD must guide the rights defined in the *Aviation Industry Ombuds Scheme and the Aviation Customer Rights Charter*. As a federal responsibility, aviation is bound by the CRPD in its policies and practices. This should be clearly stated in the Charter.

The six proposed rights are rather broad in scope. The various dot points below the proposed rights should be incorporated into the Charter. This will better define each proposed right. Some guidance will be incorporated in the Charter and this must be comprehensive in scope.

The final Charter will be released by the Aviation Industry Ombudsperson and will include guidance for industry and consumers.

Many of the structural and attitudinal problems facing passengers with disabilities will take time to successfully address. There will be an inclination to make haste slowly on many issues. Aviation Industry members should be obliged to submit an Action Plans⁵ to the Ombudsperson detailing their intended progress towards full compliance with the Charter and with the:

- **New 'show cause' arrangement**, requiring airlines to report the reasons for delays and cancellations to the Government.
- **New aviation-specific disability standards** as a schedule to the Disability Standards for Accessible Public Transport 2002 (Disability Transport Standards) under the *Disability Discrimination Act 1992*.
- **Independent Aircraft Noise Ombuds Scheme** as part of the AIOS.

Proposed Right 1: Aviation industry customers have the right to be treated with dignity and respect, in an accessible and inclusive environment

- Airlines and airports will have a Customer Service statement or charter, which outlines their commitment to provide their services in a safe and dignified manner, and free from discrimination.

To allow public scrutiny and comment, this Customer Service statement or charter should be available online or on request by the public. Ideally there would be a webpage on the Department of Infrastructure's website that provided links to all the statements.

⁵ Australian Human Rights Commission
<https://humanrights.gov.au/our-work/disability-rights/action-plans-and-action-plan-guides>

Operators of regional and remote aviation facilities and services may be challenged to develop a statement or charter. To guide them a Customer Service statement or charter template should be available from the Ombudsperson or the Department of Infrastructure.

- They will be communicated with in a respectful and non-discriminatory manner, regardless of their circumstances.

Commonwealth, State and Territory anti-discrimination legislation already requires this and yet discrimination regularly occurs. *The United Nations Convention on the Rights of Persons with Disabilities* (CRPD) also seems to have been regularly overlooked. Australia signed the CRPD on 30 March 2007, ratified the CRPD on 17 July 2008 and ratified the Optional Protocol on 30 July 2009.

Staff education as to the existing rights of passengers will be essential. It is strongly advised to co-design this training regime with the disability sector's subject matter experts.

- Their personal identity, cultural dress or religious practice (including clothing) will be respected during the whole travel experience.

Agree.

- For a person with disability, airlines and airports will comply with the Disability Discrimination Act 1992 and Disability Transport Standards across their aviation journey.

Various airlines seem to have their own unique interpretation of the Disability Discrimination Act 1992 (DDA) and Disability Transport Standards (DSAPT). The new aviation-specific disability standards as a schedule to the Disability Standards for Accessible Public Transport 2002 (DSAPT) under the DDA will hopefully clarify the aviation industries obligations and responsibilities.

The 'aviation journey' must be regarded as starting and finishing at the property boundary of the airport. Inability to arrive or leave from the airport renders the rest of the journey irrelevant. All facilities and services, including public and private transport infrastructure, must comply with both the DSAPT and the Disability (Access to Premises — Buildings) Standards 2010 (2020).

Adherence to the universal design principles of the *Convention on the Rights of Persons with Disabilities* (CRPD)⁶ and Australia's Disability Strategy 2021-2031⁷ will ensure better outcomes in aviation journeys for all passengers. This should be stated in the Charter.

⁶ Convention on the Rights of Persons with Disabilities (CRPD) Article 4 - General obligations

<https://social.desa.un.org/issues/disability/crpd/article-4-general-obligations>

⁷ Policy Priority 4: The built and natural environment is accessible

<https://www.disabilitygateway.gov.au/sites/default/files/documents/2021-11/1786-australias-disability.pdf>

It should be clear that the 'Aviation Industry' referred to in the Charter covers not only airports and airlines but also the third-party providers or agents of the airport or airline. For example, baggage handling contractors, food outlets, car hire companies, newsagents and so on will be found in many airports but will not necessarily offer accessible services to passengers with a disability. These entities are an essential part of the 'aviation journey' and must be included in the Charter.

- Information provided by airlines and airports must be available to passengers in a range of accessible formats, including languages other than English.

Agree. These accessible formats must be available immediately to avoid discrimination, or, for uncommon formats, 'in a timely manner and without additional cost'⁸.

For websites, conformity to the latest version of the Web Content Accessibility Guidelines (WCAG)⁹ is essential. Many aviation industry sites conform to WCAG but most only reach AA standard. Elements of AAA, such as audiovisual material incorporating Auslan for Deaf passengers and audio description for vision impaired passengers, must be incorporated.

- Airport and airline staff will be aware of how best to assist you if you have accessibility requirements or have medical issues requiring consideration, including implants and prostheses.

Agree. A nationally consistent training package would greatly assist in ensuring seamless travel on the whole of the journey. It is strongly advised to co-design this training regime with the disability sector subject matter experts.

- Security screening at airports will be delivered with dignity, free from bias and in line with requirements set by the Department of Home Affairs.

Agree in principle. Many instances of poor practice and even disability discrimination have been reported at security screening¹⁰. The Dept of Home Affairs should ensure that all of its staff receive appropriate customer service training and particularly disability awareness training.

Will an airport or the Ombudsperson be able to investigate and resolve a complaint regarding poor practice at security screening? Or, should the matter be reported directly to the Dept of Home Affairs supervisor on-site as per the Dept of Home Affairs website?

If you feel you have experienced an inappropriate screening process, ask to speak with a supervisor at the screening point. You

⁸ Convention on the Rights of Persons with Disabilities (CRPD) Article 21
<https://social.desa.un.org/issues/disability/crpd/article-21-freedom-of-expression-and-opinion-and-access-to-information>

⁹ <https://www.w3.org/TR/WCAG22/>

¹⁰ Former disability discrimination commissioner Graeme Innes calls for change after 'humiliating' Adelaide Airport experience
<https://www.abc.net.au/news/2022-05-15/sa-adelaide-airport-disability-discrimination-complaint/101068140>

can also lodge a complaint with the airport – ask a supervisor or check the airport’s website.¹¹

The complaints process and jurisdictional responsibilities for security screening poor practice needs to be clear.

- Wayfinding will assist in the easy navigation of airports, through signage provided in multiple languages and formats, and buildings designed to assist those with accessibility needs.

It is strongly advised to co-design this wayfinding regime with the disability sector subject matter experts. Once again, a nationally consistent approach to wayfinding is essential.

Proposed Right 2: Aviation industry customers have the right to accurate, timely and accessible information and customer service

- They will be provided with clear, simple and transparent terms and conditions that are easily available and identifiable when purchasing airline tickets and/or using airport services, such as parking.

Once again, national consistency is vital. Services and facilities should have the same name in metropolitan, regional and rural centres.

Ambiguity must be avoided entirely or passengers may make decisions based on false assumptions.

- They will be provided with clear and easy to understand conditions of carriage (including all fees) by airlines, outlining their rights regarding delays, refunds, changes and cancellations.

Once again, national consistency is vital. Aviation industry members should not be developing dissimilar conditions and rights statements.

- A customer service representative will be available at the airport and/or on the phone to assist.

Agree. In addition to telephone contact SMS contact should be available. People who are Deaf or hard of hearing may be challenged to communicate verbally with the representative. Queensland Rail currently provide an SMS service for passengers requiring information or assistance.¹²

- Information about delays, cancellations and disruptions will be provided to customers promptly after it is known by the airline.

The information must be provided in multiple accessible formats. This includes Auslan. British rail operators are currently trialling British Sign

¹¹ Your rights at the screening point

<https://www.homeaffairs.gov.au/about-us/what-we-do/travelsecure/security-screening-at-airports>

¹² <https://www.queenslandrail.com.au/forcustomers/accessibility/text-message-service>

Language messaging for Deaf passengers.^{13 14 15 16} A similar exercise is being undertaken in New Zealand.¹⁷ All of these projects recognise the confusion and anxiety that Deaf people experience when service disruptions occur and they are left uninformed by the existing audiovisual systems.¹⁸

- Any call centre should include the capability for a customer call-back option or voicemail, to ensure customers are not on hold for excessive periods of time.

Agree. In addition to telephone contact SMS contact should be available. People who are Deaf or hard of hearing may be challenged to communicate verbally with the call centre when away from home or unable to use the National Relay Service.¹⁹ Queensland Rail currently provide an SMS service for passengers requiring information or assistance.²⁰ This should be required in the Charter.

- The airline and airport will have a customer service statement or charter which will outline their specific commitments to customers, including timelines for responses to queries or feedback.

Agree. The CRPD 'in a timely manner and without additional cost'²¹ should be foremost in the development of the statement or charter.

Proposed Right 3: Aviation industry customers have the right to prompt and fair remedies and support during and after cancellations, delays and disruptions

- If a flight is delayed, the airline should provide customers with regular updates on the status of the flight and the expected departure times.

Agree. The updates should be in multiple accessible formats including information in Auslan.

¹³ <https://www.railway.supply/en/a-railway-carrier-is-testing-an-application-for-translating-information-into-sign-language-in-the-uk/>

¹⁴ <https://railuk.com/travel/arriva-rail-london-trials-luna-to-help-british-sign-language-users/>

¹⁵ <https://www.railwaygazette.com/uk/sign-language-translation-to-be-tested-at-london-overground-stations/66829.article>

¹⁶ <https://www.railwaygazette.com/uk/northern-uses-ai-to-trial-british-sign-language-announcements/65976.article>

¹⁷ <https://at.govt.nz/about-us/news-events/media-centre/2024-media-releases/inclusive-at-signage-rolls-out-at-waitemata-britomart-station>

¹⁸ <https://theconversation.com/for-deaf-people-train-travel-can-be-a-gamble-but-an-ai-powered-auslan-avatar-can-help-241016>

¹⁹ <https://www.accesshub.gov.au/>

²⁰ <https://www.queenslandrail.com.au/forcustomers/accessibility/text-message-service>

²¹ Convention on the Rights of Persons with Disabilities (CRPD) Article 21 <https://social.desa.un.org/issues/disability/crpd/article-21-freedom-of-expression-and-opinion-and-access-to-information>

- If a flight is disrupted or delayed for more than 3 hours, for reasons within the airline's control, customers should, at no cost to the customer, receive:

- assistance to rebook with original or alternative airlines, without fees

Agree.

- the option to cancel time-dependent flights with a full refund

Agree.

- meals, meal vouchers/reimbursement or access to a lounge where food is available, where flights are delayed

Agree. The premises serving food must be accessible to people who have a disability.

- accommodation and transfers where a customer is required to remain in an away-from-home port overnight

Agree. The premises providing accommodation must be accessible to people who have a disability.

- If customers have had to book a new flight with another airline due to their original airline not having a reasonable replacement flight, then the original airline will refund the cost of the original flight.

Agree. This must be done in a timely manner.

- Customers should receive a refund for a cancelled flight within 14 days of the cancellation being notified, regardless of the fare type, where an alternative flight has not been agreed. The refund should be to the full amount paid by the customer, including baggage charges, pre-purchased meals, extra leg room fees and any payment fees and charges.

Agree.

- The default position of airlines will be the provision of a refund in the original form of payment (including cash, credit or flyer reward points), with a travel voucher only being issued if the customer chooses that option.

Agree.

- If a flight has boarded, but is disrupted through a delayed take-off for longer than 1 hour, subject to safety requirements, customers will be provided access to amenities, appropriate refreshments and regular information updates about the delay.

Agree. The updates should be in multiple accessible formats including information in Auslan.

Proposed Right 4: Aviation industry customers have the right to safe and timely baggage handling and fair remedies for damage and delays

- Luggage will be safely handled through the aviation journey, from originating airport to plane to destination airport, including on the tarmac.

Agree. Reports of damage to mobility aids and disability aids by baggage handlers are far too frequent. Since the baggage handling contractors are third-part providers, and not employees of airline or airport, will they be

fully covered by the Charter and able to be investigated by the Ombudsperson?

- If luggage is temporarily lost by an airline, customers should be reimbursed for the necessary purchase of appropriate clothing and toiletries where this occurs away from the customer's home port.

Agree. This supposes that such clothing and toiletries are readily available at the passenger's away-from-home location. This will often not be the case, particularly in regional areas. A system that allows same-day replacement of necessary items must be in place and form part of the Charter.

- If luggage is damaged in the course of carriage, the airline will finalise a claim for damages in a timely manner.

Agree. Particularly for essential supports and equipment 'timely' must be very expeditious. Perhaps differentiate between 'general' luggage and 'essential' luggage in the Charter? Once again, will third party baggage handling companies be covered by the Charter?

- When any lost luggage is located, it should be delivered to the customer at the earliest possible time and at no cost to them.

Agree.

Proposed Right 5: Aviation industry customers have the right to the protection of their personal information

- Clear information about airline and airport handling of personal information will be available on their website.

Agree. The website should be compliant to the latest version of the Web Content Accessibility Guidelines²². Further, rather than AA compliance, elements of AAA compliance should be required. For information presented in audiovisual format this must include Auslan alternatives for Deaf people and audio description for vision impaired people.

In addition to webpages information should be available in other accessible formats, including verbal interaction with staff.

- Airlines and airports (including their contractors) will collect, handle and store any personal information, according to the law.

Agree.

- Airlines and airports will only store any personal information for the length of time that is necessary for the provision of the aviation service they are providing, or as authorised by law.

Agree.

²² <https://www.w3.org/TR/WCAG22/>

- Personal information supplied to an airline or airport will be done securely, with minimal risk of compromise by unauthorised third parties.

Agree. Please inform foreign state actors and big tech companies of this.

- Personal information, (for example, meal preferences) that are provided by an airline or airport to a third party for the purposes of providing a service will be transmitted securely, handled appropriately and disposed of promptly.

Agree.

Proposed Right 6: Aviation industry customers have the right to provide feedback, make complaints and exercise their rights without retribution

- Airlines and airports will improve their complaint handling systems, seeking to resolve customer complaints in the first instance and not require escalation to external complaints agencies.

Appeals to improvement may amount to little progress. A stronger statement such as 'Airlines and airports shall improve their complaint handling systems, resolving customer complaints in the first instance whenever possible, in order to avoid escalation to external complaints agencies.'

- A family member, carer, advocate or legal representative will be able to support and/or represent a customer.

The power imbalance between an aviation industry entity and a passenger is immense. The ability to have an advocate of the passenger's choosing present is essential.

- Information will be supplied by the airline or airport on how to provide feedback or make a complaint, and how the complaint will be escalated if you are not happy with the response, including how to contact the Aviation Industry Ombudsperson.

This information must be immediately available in multiple accessible formats whenever possible. Information requested in an uncommon format must be supplied 'in a timely manner and without additional cost'²³.

- All feedback and/or complaints will be acknowledged by, and responded to, by the airline or airport in a reasonable timeframe (with a target of 24 hours to acknowledge and 30 days to resolve).

Agree. This 30 day should not apply to essential luggage as stated earlier.

²³ Convention on the Rights of Persons with Disabilities (CRPD) Article 21
<https://social.desa.un.org/issues/disability/crpd/article-21-freedom-of-expression-and-opinion-and-access-to-information>

- Airlines and airports will facilitate the exercise of customer rights under the Charter without customers being concerned about retribution.
Agree.

What happens if your rights are breached?

In the first instance, customers should seek to resolve the issue directly with the relevant airline or airport.

All AIOS members will be required to have appropriate mechanisms in place to allow complaints to be heard and responded to in a timely manner. If attempts to resolve the issue are unsuccessful, customers will have the right to file a formal complaint with the AIOS. The AIOS will be able to resolve issues by pursuing an issue directly with scheme members, and if required, by referring matters to the relevant regulator.

In the event that an AIOS member does not comply with its obligations under the legislation, the AIO will be able to refer matters to the new regulator for the AIOS.

Making a complaint to the AIOS will not preclude a customer from also pursuing a claim through a court or tribunal or other process, such as through the Australian Human Rights Commission.

It is expected that legislation to enact the AIOS and the new regulator will be introduced to Parliament in 2025.

Comment

The above advice on breach of rights is mostly clear and is accepted in principle. The 'in a timely manner' requirement maybe open to interpretation. Stipulating relevant timeframes would provide certainty for all parties.

In addition to the Australian Human Rights Commission add the State and Territory Anti-Discrimination and Human Rights Commissions.

A passenger may feel that their rights have been breached at security screening. The Charter appears to cover this eventuality.

Security screening at airports will be delivered with dignity, free from bias and in line with requirements set by the Department of Home Affairs.

It is not clear though as to who Under the Charter that the complaint should directed, the airport or the Dept of Home Affairs. Currently, complaints go to the security supervisor or to the airport.

If you feel you have experienced an inappropriate screening process, ask to speak with a supervisor at the screening point. You

can also lodge a complaint with the airport – ask a supervisor or check the airport’s website.²⁴

Will the Ombudsperson be able to investigate and resolve a complaint regarding poor practice at security screening? Will the Dept of Home Affairs even be covered by the Charter? Will the Ombudsperson have any jurisdiction in the matter of security screening? It appears in the Draft Charter that only airports and airlines are covered by the Charter. Will the Charter include security screening within the airport?

The rights within the Charter will inform the Aviation Industry Ombudsperson’s complaints resolution process, and underpin any determination the Ombudsperson may give to resolve a complaint in a particular way.

In the event that an airport or airline does not comply with the AIOS, then the Ombudsperson will be able to refer matters to appropriate regulators for further action.

Clear and unambiguous directions on the process for complaints concerning security screening are needed.

It is best not to use acronyms in the Charter as these are often ambiguous and confusing.

A simple English version of the Charter should be available as should an Auslan version. The information requirement placed on airlines and airports should be applicable to the Charter.

Information provided by airlines and airports must be available to passengers in a range of accessible formats, including languages other than English.

²⁴ Your rights at the screening point
<https://www.homeaffairs.gov.au/about-us/what-we-do/travelsecure/security-screening-at-airports>