

**Consultation on
Guidelines, Incentives and Ad hoc Advisory Panel for
Passenger Representation in Regulatory Decision Making
for Dublin Airport**

Commission Paper 16/2017

21 December 2017

Commission for Aviation Regulation

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Table of Contents

- 1. Executive Summary..... 2
- 2. Responding to this Consultation 3
- 3. Draft Introduction to Guidelines on Passenger Engagement 4
- 4. Proposed Incentivisation..... 6
- 5. Proposed Principles and Collaboration Process..... 8
- 6. Direct Passenger Engagement by the Commission..... 12

1. Executive Summary

- 1.1 The Commission has decided to consult on draft guidelines and incentives for passenger engagement by Dublin Airport, airlines and other stakeholders, and direct passenger engagement by the Commission. This consultation follows on from our decision CP15/2017, published alongside this paper, that sets out our final assessment that there is a lack of evidence that the views of passengers have explicitly been taken into account in our regulatory decision making process.
- 1.2 The draft guidelines and incentives, set out in Sections 3 and 4, are aimed to increase transparency about how Dublin Airport, airlines or other stakeholders use the results of passenger engagement to support their regulatory submissions. Guidelines and incentives should also improve the way that the outputs of passenger engagement by stakeholders are communicated to the Commission, and should clarify how we will interpret those outputs.
- 1.3 The Commission aims to incentivise Dublin Airport and airlines to engage continually with passengers and be collaborative and transparent during the process. We encourage Dublin Airport and airlines to use, as much as possible, their existing passenger engagement as part of their regulatory submissions. Other stakeholders are also encouraged to use their evidence of passenger engagement in their regulatory submissions.
- 1.4 In Section 5, we are proposing a set of criteria in our decision-making to incentivise different kinds of work related to passenger engagement. The draft guidelines also include principles for good passenger engagement and a collaborative process that should be followed to meet one of the criteria to be used in our regulatory decision-making.
- 1.5 In Section 6, we are consulting on two forms of direct passenger engagement by the Commission. The first proposal, aimed to inform passengers, is the publication of Commission documents that are more accessible to passengers. The second proposal is to set up an ad hoc panel of volunteer passengers or their representatives called the Passenger Advisory Group (PAG).

2. Responding to this Consultation

- 2.1 We invite stakeholders to make submissions in relation to the consultation questions set out in this paper. Respondents are asked to support any views expressed in submissions with relevant evidence where possible.
- 2.2 Responses should be titled “**Response to Consultation on Guidelines and Incentives related to Passenger Representation in Regulatory Decision Making for Dublin Airport**” and sent by email to info@aviationreg.ie (preferable); or by post to 3rd Floor, Alexandra House, Earlsfort Terrace, Dublin 2, D02 W773.
- 2.3 The closing date for receipt of submissions is **5pm, 26 January 2018**.¹ We may correspond with interested parties who make submissions, seeking clarification or explanation of their submissions. Such correspondence will not be an invitation to make further submissions.
- 2.4 Respondents should be aware that we are subject to the provisions of the Freedom of Information legislation. Ordinarily we place all submissions received on our website. We may include the information contained in submissions in reports and elsewhere as required. If a submission contains confidential material, it should be clearly marked as confidential and a redacted version suitable for publication should also be provided.
- 2.5 We do not ordinarily edit submissions. Any party making a submission has sole responsibility for its contents and indemnifies us in relation to any loss or damage of whatever nature and howsoever arising suffered by us as a result of publishing or disseminating the information contained within the submission.
- 2.6 While we endeavour to ensure that information on our website is up to date and accurate, we accept no responsibility in relation to the accuracy or completeness of our website and expressly exclude any warranty or representations as to its accuracy or completeness.

¹ The time of receipt of representations, whether in electronic form or otherwise, shall be the time when we actually receive the representations at or in our offices. Submissions received after the deadline will be deemed not to have been received and we will not consider them. If we receive a portion of a representation prior to the deadline, and the remainder after the deadline, we will only consider the portion received prior to the deadline.

3. Draft Introduction to Guidelines on Passenger Engagement

- 3.1 The Commission is proposing to issue guidelines to:
- improve the transparency of the extent to which regulatory submissions by Dublin Airport, airlines and other stakeholders align with passengers’ interests;
 - improve the way that the outputs of passenger engagement by Dublin Airport, airlines and other stakeholders are communicated to the Commission; and
 - clarify how we will interpret those outputs.
- 3.2 The Commission does not wish to prescribe exactly how Dublin Airport, airlines or other stakeholders should engage with passengers. However, all stakeholders may benefit from greater clarity to maximise the relevance and effectiveness of their approach to passenger engagement.
- 3.3 The draft guidance below sets out our proposed incentive, criteria in our decision-making, objectives of engagement, principles of good passenger engagement, collaboration process, airport design, and the role of the Commission.

Definitions

- 3.4 For the purposes of these guidelines, the concept of passenger includes, but is not limited to, a current or future person landing in/arriving to or taking-off/departing from Dublin Airport.
- 3.5 Passenger engagement is any process that involves passengers in problem-solving or decision-making or uses passenger input to make better decisions.² These processes can include, but are not limited to, the use of consumer panels, advisory forums, independent representative bodies, and different techniques for gathering consumer-related intelligence.
- 3.6 Engagement is a process which can occur across a spectrum of levels of passenger participation and influence over decisions. The lowest level of influence over decisions is **to inform** passengers; the highest level of influence is **to empower** passengers to have control over decisions. Between these two extremes, there is **consultation**, where passenger feedback is taken into account, and **collaboration**, when Dublin Airport works with passengers to reach decisions.

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| Q1. Do you agree with the proposed definitions of passenger engagement and its levels? |
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Objectives of Passenger Engagement

- 3.7 From our perspective, the objective of using passenger engagement in regulatory proposals is to understand the widest range of passenger interests, and balance the diverse interests between different segments of passengers, as well as current and future passengers.

² https://www.aviationreg.ie/_fileupload/2017/Final%20report%20CEPA.pdf

- 3.8 Passenger engagement should be used to understand overall passenger priorities. Once priorities are identified, further engagement will provide evidence to support or reject a particular regulatory proposal, or choose a specific solution within a range of options.
- 3.9 Proposals may relate, but are not limited, to capital expenditure (capex) projects or quality of service measures and associated operational expenditure (opex). Estimates of passengers' willingness-to-pay should only be used as relative evidence to support or reject a proposal, rather than absolute evidence to determine opex/capex allowances. In principle, capex and opex allowances are always assessed for cost-efficiency, regardless if they are supported by passenger engagement or otherwise.
- 3.10 Passenger engagement may be used as evidence by Dublin Airport, airlines or other stakeholders to support their own regulatory submissions or support/reject those of other stakeholders. Passenger engagement should support regulatory proposals that are economically and technically viable and have sound business cases. Proposals that are supported by passenger engagement but are economically or technically unrealistic should not be submitted.

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| <p>Q2. Do you agree with the objective of passenger engagement carried out by Dublin Airport, airlines or other stakeholders?</p> |
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4. Proposed Incentivisation

- 4.1 The Commission aims to incentivise Dublin Airport and airlines to continually engage with passengers and be collaborative and transparent during the process. Dublin Airport and airlines should use existing passenger engagement, as much as possible, as part of their regulatory submissions. Other stakeholders are also encouraged to engage with passengers as appropriate.
- 4.2 Regulatory proposals and submissions based on evidence from passenger engagement that follows the draft guidelines will be more likely to be approved in terms of their justification during our decision-making process. We envisage that passenger engagement may provide useful evidence to support or challenge regulatory proposals, especially when there is no agreement among stakeholders. The likelihood of approval of a justification will depend on a number of criteria set out below. However, the assessment in terms of cost-efficiency of capex or opex allowances will be the same as for other regulatory proposals.
- 4.3 Conversely, where an aspect of the regulatory submissions of any stakeholder could benefit from passenger engagement but no such evidence is presented (e.g. for a capital expenditure or quality of service proposal for which passenger interests are material), the Commission may adapt its decision accordingly. It is the responsibility of any stakeholder to provide supporting evidence or to explain why the engagement was not appropriate, with reference to the principles of good passenger engagement set out below.
- 4.4 Passenger engagement is one part of the evidence available to stakeholders to support their own regulatory submissions or support/challenge that of other stakeholders. The Commission takes into account passenger engagement along with other evidence to arrive at a final decision to accept or reject the proposals.

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| Q3. Do you agree with the incentivisation proposed? |
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Criteria in our Decision Making

- 4.5 For the purposes of our regulatory decision making, the Commission will assess the quality of given pieces of work of passenger engagement with regard to the criteria below. The more criteria the passenger engagement work meets, the higher its quality and the stronger the weight it will have during our decision-making.
- 4.6 If a given piece of work on passenger engagement does not comply with each of the criteria, it does not mean that the Commission will dismiss it entirely. We will take each passenger engagement work into account in the context of the criteria that was met.
- 4.7 Evidence from passenger engagement will be assessed against the following criteria:
- Engagement that first seeks to establish passenger priorities, with subsequent engagement showing how these priorities are being met.
 - Independent (external) research compared to internal research.

- Evidence gathered through a range of methodologies including qualitative/quantitative research, surveys, focus groups, panels, complaints data and other market intelligence, etc.
- Relative (ordered) preference rankings compared to absolute value estimates, for instance, passenger's willingness-to-pay values.
- Research based on passengers' revealed preferences (e.g. past purchasing behaviour) compared to stated preferences (e.g. hypothetical purchasing behaviour). However, we acknowledge that revealed preferences may not be available when engaging with future passengers.
- Passenger engagement consulted on by stakeholders, following the collaboration process and timelines set out below.
- Passenger engagement that seeks to represent the views of a diverse range of passengers, including current and future passengers.

Q4. Do you agree with the proposed criteria to assess the quality of works on passenger engagement for the purposes of our regulatory decision making?

5. Proposed Principles and Collaboration Process

Principles of Good Passenger Engagement

- 5.1 The purpose of economic regulation is to achieve the outcome of a competitive market. In competitive markets, airports are incentivised to continually engage with their current and future passengers to understand and respond to their needs and requirements in a cost-efficient manner.
- 5.2 The Commission has identified the following principles of good passenger engagement to guide Dublin Airport in demonstrating good passenger engagement. Dublin Airport should:
- Deliver efficient, high-quality and safety conscious airport services that meet the needs of current and future passengers.
 - Continually engage with passengers in order to 1) understand and respond to their needs, and 2) plan and deliver, on a timely basis, the infrastructure and services required by passengers at the price/quality ratio they demand.
 - Engage with passengers in relation with their regulatory submissions, and demonstrate that it has followed the guidelines below.
 - Engage with passengers early in the regulatory process in a transparent and objective manner.
- 5.3 The latter two principles apply to airlines and other stakeholders if they wish to demonstrate good passenger engagement.

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| <p>Q5. Do you agree with the proposed principles on passenger engagement by Dublin Airport, airlines and other stakeholders?</p> |
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Collaboration Process for Dublin Airport and Airlines

- 5.4 In order for the Commission to assess the quality of passenger engagement as a piece of evidence in relation to regulatory submissions, Dublin Airport, airlines and other stakeholders should collaborate with each other as set out below.

Before Passenger Engagement

- 5.5 Before passenger engagement begins, stakeholders should share the information below:
- the need/justification of the engagement. It should include clear objectives.
 - the draft terms of reference. Preferably, the engagement should take account of and be accessible to the majority of passengers, current and future.
 - The draft methodology for data gathering and engagement. The scope and limitations/constraints of the engagement should be clear, and tailored to suit the knowledge and awareness of different groups of passengers.

- 5.6 The level of detail should allow stakeholders to fully understand and comment on the information shared, and should allow other stakeholders to be theoretically able to replicate the engagement.
- 5.7 Dublin Airport and airlines should respond to comments from stakeholders about final terms of reference and methodology with facts and objective reasons, whenever possible.
- 5.8 The engagement must follow the consulted terms of reference and methodology. Any changes to the terms of reference or methodology should preferably be consulted on again.

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| Q6. Do you agree with the expected consultation process before the engagement, as well as the transparency level requirements? |
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After Passenger Engagement

- 5.9 Stakeholders should share the draft results and reports related to the relevant passenger engagement. The draft report should explain the methodology, data, analysis and conclusions in detail, to allow other stakeholders to understand and comment on it.
- 5.10 Stakeholders should respond to comments in a final report, providing facts and objective reasons whenever appropriate.

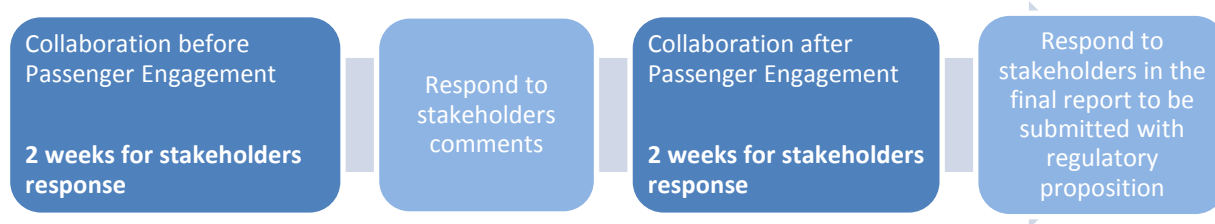
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| Q7. Do you agree with the expected collaboration process after the engagement, as well as the transparency level requirements? |
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| Q8. Do you have any reasons to support a different consultation process for passenger engagement in relation to capex proposals compared to quality of service/opex? |
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Timeline of Collaboration

- 5.11 Dublin Airport should engage with passengers continually, including at the early stages of making their regulatory proposal. Ideally, passenger engagement that will be used as evidence should form part of the preparation of regulatory proposals of Dublin Airport.
- 5.12 The Commission sets out below the proposed timeline of collaboration before and after passenger engagement. Stakeholders should be allowed a minimum 2 weeks to provide their feedback in relation to the information sharing before and after any initiative of passenger engagement. The timeline is shown in Chart 1. Considered responses to stakeholders' comments should be provided by the stakeholder conducting the passenger engagement.

Chart 1: Proposed timeline of collaboration before and after passenger engagement.



Q9. Do you agree with the proposed timeline of collaboration?

Airport Design

- 5.13 The Commission proposes to require Dublin Airport to explicitly demonstrate that its proposed capital expenditure projects comply with the requirements on airport design as per Regulation (EC) No 1107/2006. Compliance with other guidelines will also be encouraged, for example guidelines of the Irish Wheelchair Association or guidelines compatible with universal design.
- 5.14 This proposal aims to increase the transparency about how capital expenditure projects by Dublin Airport have taken into account the advice of experts from disability organisations and passengers with disabilities or reduced mobility (PRM), or other types of passengers, from the first phase of planning.
- 5.15 Regulation (EC) No 1107/2006 concerns the rights of disabled persons and persons with reduced mobility when travelling by air. According to this regulation, Dublin Airport should have regard to document 30 of the European Civil Aviation Conference (ECAC), Part I, Section 5 and its associated annexes, when organising the provision of assistance to disabled persons and persons with reduced mobility.
- 5.16 According to paragraph 5.9.11.2 of Document 30 of the ECAC, Ireland *“should ensure that from the first phase of planning, new plans for building or renovating airport installations open to the public meet the national or international accessibility standards for persons with disabilities and PRMs. Before final plans are submitted for approval, the advice of experts including experts from disability organisations should be sought.”*³
- 5.17 Paragraph 5.9.11.8 further states that *“all areas of a terminal building that are open to the public, including all facilities, should be designed in such a way that persons with disabilities and PRMs can reach and use them without difficulty, in particular: toilets, restaurants, shops, communication equipment, counters”*.

Q10. Do you agree with the proposal to require Dublin Airport to explicitly demonstrate that its proposed capital expenditure projects comply with the requirements on airport design as per Regulation (EC) No 1107/2006?

³<https://www.ecac-ceac.org/documents/10189/51566/Doc30+Part+I-11thEdition-Amdt5-December2015e.pdf/fc3cd577-6e5c-47b8-ba8e-3ea934c40d31>

The Role of the Commission

5.18 The Commission may choose to make submissions in the consultation processes on passenger engagement.

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| <p>Q11. Do you agree with the role of the Commission in relation to passenger engagement carried out by Dublin Airport and airlines?</p> |
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6. Direct Passenger Engagement by the Commission

- 6.1 We are proposing two forms of direct passenger engagement by the Commission. In terms of the level of passenger participation and influence over our decisions, the proposals will **inform** and **consult** passengers, respectively. The first proposal, aimed to inform passengers, is the publication of Commission documents that are more accessible to passengers. The second proposal, aimed to consult passengers, is the setting up of an ad hoc advisory panel of volunteer passengers or their representatives.

Commission Documents More Accessible to Passengers

- 6.2 The Commission proposes to inform passengers through the publication of Commission documents, that are relevant to passengers, in a more accessible format. For instance, accessible documents may present an executive summary of the key elements of topics relevant to passengers in our regulatory decisions.

Q12. Do you agree with the publication by the Commission of documents more accessible to passengers? Do you have any suggestions on the how information should be published?

Passenger Advisory Group (PAG)

- 6.3 Following our decision set out in CP15/2017, the Commission is consulting on the draft rules to govern our ad hoc advisory panel of volunteer passengers or their representatives.

Purpose

- 6.4 The Passenger Advisory Group (PAG) will be tasked with improving our understanding of passenger requirements in our decision making. The Group will also provide an additional assessment of regulatory submissions from the perspective of outcomes and priorities that benefit passengers.

Principles

- 6.5 Engagement/consultation with the Group will be focused on real opportunities to influence our decisions.
- 6.6 The Group will be provided with information about the topic for consultation, and about the opportunities and constraints involved in the decision making.
- 6.7 The Group will be consulted on by the Commission in an advisory capacity only.
- 6.8 We value the feedback of the Group as one of many factors in our decision making.
- 6.9 The Commission will endeavour to include a balanced and diverse membership that reflects the diversity of passengers at Dublin Airport.
- 6.10 The Group will be given sufficient time, whenever possible, to provide meaningful engagement. We will strike a balance between ensuring appropriate timelines for engagement and the need for timely decision making.

Scope

6.11 The scope of the Group concerns topics that are relevant to passengers at Dublin Airport and to which passengers are able to provide valuable feedback about. Below is a non-exhaustive list of topics within the scope of the Group:

- The identification of priorities of passengers at Dublin Airport;
- the assessment of the passenger experience at Dublin Airport;
- the evaluation of current (and the identification of new) quality of service outcomes, measures and targets at Dublin Airport; and
- the need for capital expenditure projects at Dublin Airport.

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| Q14. Do you agree with the proposed purpose, principles and scope of the Group? |
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Membership

6.12 Membership is open to all segments (types) of current and future passengers at Dublin Airport. Examples of segments are: the elderly, families with young children, inward/outward business, inward/outward leisure, passengers with reduced mobility (PRM) and people with disabilities.

6.13 Members may be appointed as an individual or as a representative of any organisation.

Recruitment and Appointment

6.14 The Group will comprise of approximately 8-12 members that represent the most number of passenger segments.

6.15 Members will be appointed by the Commission based on expressions of interest and the Commission will chair the meeting(s).

6.16 Strategies to seek membership nomination may include:

- open advertisements,
- seeking recommendations from relevant bodies, and/or
- direct approach to passengers at Dublin Airport.

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| Q15. Do you agree with the proposed membership and recruitment of the Group and the appointment of Chair? |
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Meetings

6.17 At the start of each year, the Commission will discuss its work plan with the Group and provide the Group with appropriate documentation, background briefing and other information as required throughout the year before each meeting.

- 6.18 Relevant documents will be circulated to members of the Group at least 2 weeks in advance of meetings.

Conflicts of Interest

- 6.19 Members must declare any conflicts of interest whether actual, potential, apparent or likely to arise.

Support

- 6.20 Members are volunteers and do not receive remuneration.
- 6.21 Members will be refunded for the transportation costs associated with attending the Group meetings.
- 6.22 Members will be offered refreshments or lunch as appropriate during meetings.

- Q16. Do you agree with the proposed meetings, conflicts of interest and support for Group members?
- Q17. For individuals eligible according to the above rules, would you like to be a member of Group?

Collaborative Process - Before PAG Meetings

- 6.23 The Commission will notify Dublin Airport, airlines and other stakeholders, in advance of the Group meetings, the details below:
- The objective, scope, and deliverables of the proposed PAG meeting according to the relevant topic (e.g. capex project, or quality of service measure) to be considered;
 - The participants at the meeting,
 - The timeline of the consultation process.

Collaborative Process - After PAG Meetings

- 6.24 The Commission will allow stakeholders 2 weeks to comment on the conclusions reached as a result of the meetings.

- Q18. Do you agree with the proposed collaborative process by the Commission before and after PAG meetings?

Evaluation

- 6.25 The Commission proposes to review the effectiveness of this arrangement over time.