

Business, Energy and Industrial Strategy Committee

Oral evidence: Flight cancellations and compensation, HC 370

Tuesday 14 June 2022

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Members present: Darren Jones (Chair); Tonia Antoniazzi; Richard Fuller; Paul Howell; Mark Jenkinson; Charlotte Nichols; Mark Pawsey; Alexander Stafford.

Transport Committee member also present: Ruth Cadbury.

Questions 120 - 145

Witnesses

[IV](#): Robert Courts MP, Minister for Aviation, Maritime and Security, Department for Transport; Richard Moriarty, Chief Executive, Civil Aviation Authority.

Examination of witnesses

Witnesses: Robert Courts and Richard Moriarty.

Q120 Chair: We are now moving to the final panel for today. We are welcoming Robert Courts, who is the Aviation Minister, and Richard Moriarty, the chief executive of the regulator, the Civil Aviation Authority. Minister and Mr Moriarty, thank you for coming to see us this morning. We appreciate you coming to answer our questions. As you will know, this is a one-off session for us, although there will be a supplementary session with some of the CEOs that could not be available to speak to us this morning. Our primary issues are around labour market shortages, and we have an adjacent inquiry on the UK labour market and also on the enforcement of consumer rights legislation in the airline industry.

Minister, we have heard from all our panels so far that, essentially, labour market shortages are at the heart of all the problems with flight cancellations and delays at the moment. Obviously, that has predominantly been with a focus on Covid and a bit on Brexit and the flow of European workers into the UK. I wanted to ask you questions about those two answers from the previous panels.

Pretty much everybody said that the travel restrictions during the Covid period and the way that furlough was extended or not extended in a timely fashion had implications for the companies being able to keep their staff or make them redundant and then that is having a direct impact on their ability to fly planes today. Do you agree with that?

Robert Courts: The first point to make is this has been an exceptionally difficult time for the aviation sector. I have enormous sympathy with the difficult decisions it has had to make because it has had to look at the viability of its businesses and, in many cases, keep operating and look to grow in the future, and particularly to grow under circumstances when neither it nor anyone else knows the rate at which the demand would come back.

We have tried to give support to the sector to enable it to maintain a level of service and then to be in the position to bounce back when the time came. The most important thing, from my perspective, has been to make sure that they can keep flying again as soon as possible. I know how difficult the restrictions have been, and none of us wanted to be in that position. To remove those restrictions and then get people flying again is the most important thing. I say that in the spirit of understanding the difficulties the sector has had. It has been very difficult. What rate is demand going to come back at?

That said, it is a privately run industry, of course, and it is the responsibility of the sector to ensure that it has the people throughout the entirety of the aviation ecosystem to be able to operate the flights that it is offering for sale.

Q121 Chair: On Brexit, I cannot remember the figures that Simon Calder gave



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us earlier, there was a certain percentage of workers who tended to be European migrants working in the UK, and that that has had a significant impact. Do you agree with that?

Robert Courts: I think that is not likely, and I say that for two reasons primarily. First, this is a global problem. I have seen the evidence that you have had, and it is my understanding too. Schiphol, for example, as we have seen in the news, has had a major problem. There have been similar problems in Dublin and France and also in the United States, which tends to suggest this is a global issue that is caused by a number of factors. Fundamentally, if I were to put it in a sentence, it is the closedown of a sector and then having to open it up again with all the disruption that inevitably causes.

It is unlikely, and the reason I say that is that, if there were aviation workers spare on the continent of Europe, you would expect them to be in Schiphol, for example, and solving that issue, and that is not happening. Similarly, we see the same thing in the United States. It is unlikely.

The second reason for that is that I am conscious that, with the HGV issue, similar points were made, and we made 5,000 visas available to enable HGV drivers to come. I think 27 were taken up; at any rate, it was not very many. It is impossible for me to prove a negative, of course, but, on the evidence we have, it looks as if Brexit has little if anything to do with it.

Q122 **Chair:** Where there have been requests for changes to the immigration rules, you will not be taking up those offers from the industry.

Robert Courts: For the reason given, it does not seem that that would be effective. There are a number of steps we can take and will look to take, but that is one that, for the reason I have given, does not seem to be effective. I would expect those workers to go to Schiphol before—

Q123 **Chair:** How do we evidence that? If some employers are saying, “It would be helpful to employ more European workers”, and then you are saying, actually, it is not helpful for them to do that, what is the evidence? Where do we check the numbers? How do you have confidence that European migration flows are not a problem for aviation workers?

Robert Courts: There clearly are data sets that underpin this.

Q124 **Chair:** Which ones do you look at in the Department?

Robert Courts: Just before I hand over to Richard, the common-sense observation of the market is quite a good one. It is an understandable reaction for an employer to say, “If only I had access to this greater talent pool, the issue would be solved”. For the reason I have given, I do not think that talent pool is there, because we are seeing this as a global problem and one that we see very much writ large in Europe as well. If



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those workers existed in Europe, I would expect there not to be a problem at Schiphol.

Q125 **Chair:** We are all about evidence as well as common sense on this Committee, and I have just been told that we were told 30% were EU workers before Brexit. We will ask them as well, but I am keen to see if there is any data to underpin this argument one way or the other. Richard, did you say you had something on this?

Richard Moriarty: In the UK, over the half-term and Jubilee period, roughly between 2% and 4% of total flights were cancelled in the UK. That compares to a normal run-rate of cancellations of about 1%. That is clearly distressing and unacceptable, and we want to make sure we get a grip to get it back to normal levels.

If we look at other comparable countries, their cancellation rates over the same period were equally high. France was 3%, and the Netherlands, which you heard earlier on around Schiphol Airport, was 11%. As the Minister suggested, we are also picking up high numbers in both Dublin and North America as well, so this is not solely a UK-specific issue.

Q126 **Ruth Cadbury:** I am here from the Transport Committee; I am guesting today. I have heard you say many times in answer to questions about Covid support being adequate for aviation, "Aviation got £8 billion", but, of course, that was the same as all sectors in terms of furlough and loans and so on. As the Chair of the Transport Committee said, you cannot just flick on aviation like a switch. It needs a lead-in. From across the board, there were representatives saying that there should have been specific support to retain and bring back staff in aviation in order to allow for the lead-in. Why did that not happen?

Robert Courts: You are right. You have made that point before; we have had this conversation before. Of course, you know but forgive me; I will of course quote that £8 billion of support that the Government gave, and it is because the Government overarchingly took that approach not of sector-specific support but support to the whole economy, no matter what the industry was. Furlough, UKEF and the loans are classic examples of that. Yes, that support was there.

There were also things like the airports and ground handlers business rates scheme, so that was provided as well, specifically to two of the sectors that are most impacted with the topic that the Committee is concerned with today. I think I am right in saying that that took care of the business rates liabilities of all but the very largest of airports, so that was very much there.

Then you get to the stage of the restart. From Government's perspective, it seems to me that the best thing I can do for the sector is to enable it to operate again. It had been prevented from flying for understandable public health reasons but prevented from flying nonetheless. The sooner I



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can remove those restrictions, which I am glad to report we did—and we were a leading country in doing it—the better for this industry.

We are then in the position of understanding the rate at which demand will come back. As I started by saying in answer to the Chair, I have enormous sympathy for the sector as it is trying to understand the rate at which it is going to come back. It is difficult when you deal with this extremely uncharted territory, but it is the responsibility of the sector, at the end of the day, to look at how many tickets it is offering for sale and how many it can service, and to ensure that the people that it needs are in place or, if they are not in place, to adjust operations accordingly. That is going to be a major focus for us going forward.

I have been engaged in this issue, as you would expect, for a long time. We may go into some of the steps Government have taken in due course, but, going forward, I will be scrutinising those plans myself on very regular basis, weekly chaired by myself and also officials at the same time.

Q127 Ruth Cadbury: I have two further questions. A number of members may still have questions of you around the package of support for passengers when their flights are cancelled or delayed over a long period. As Simon Calder said at the beginning, one of the few advantages of leaving the EU is that you can move away from the EU261 compensation scheme. Would you be looking to improve it, strengthen it or not change it at all and retain it as it is?

Robert Courts: There are a number of points there. There are a number of advantages to not being a member of the European Union in the aviation sector. We have taken advantage of a number of them, but we will perhaps park that for another day or for another question.

In terms of rights and consumer rights, yes, we have just closed a consultation on this. We are looking to learn the lessons from Covid and also make use of the freedoms that we now have and to ensure that we have a compensation regime and consumer rights regime that really work for us. In due course, we will be saying more about that. I cannot go into it in too much detail at the moment because we are considering the consultation responses. We mentioned in our recent strategy, *Flightpaths to the Future*, that it is something that we will be looking at. One of the things in particular will be around assisting the CAA with its enforcement powers. That is something we are interested in.

Q128 Ruth Cadbury: I have one further question on the CAA. You are primarily responsible for the vetting of staff who need airside clearance. What are you doing to speed up the turnaround time, and what else can other authorities do? I gather we have some movement with HMRC.

Richard Moriarty: I recognise this question. There is some confusion in the system about where the blockages are. There are actually two checks that need to be done. There is a check that we and Government partners



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do, which is the security clearance. Actually, the turnaround times there are as good, if not better, than they were pre-pandemic.

The blockages tend to be in a different part of the system, which is the employer background checks, the things that the airport and airlines need to do. This is about getting the employment history of people over the last five years. As you can imagine, the last five years have been very difficult for many people.

Q129 **Ruth Cadbury:** HMRC is now playing ball on that.

Richard Moriarty: Correct, and that is a decision that the Minister took recently.

Robert Courts: It may be appropriate, Chair, if I were to answer this. This is one of the issues that was raised. I have ongoing discussions with the sector. I have done all the way through Covid. I am sure I said to you before in the TSC hearing that I have an open-door policy, so I have had numerous meetings and a number of issues have always been raised. In the course of the restart planning, this issue was one of the ones raised by the sector. Five-years reference checks have to be done, and we looked at what we could do to help with that.

We engaged with our colleagues at Treasury to enable a letter to be provided that gives that in one go and lays it out rather than having to go to all the individual employers, which clearly is very time-consuming. I hope you will forgive me for stressing that for a moment, because it really is something that will help. It will help perhaps more in the medium term, in terms of bringing more people on-board, which is very much needed, but it is a good example of how we work very closely with the sector. It is a good example of us holding meetings, engaging and listening to it, and acting and delivering on the things it has asked for.

Q130 **Richard Fuller:** Minister, just on the "Let's blame Brexit" line of argument we have heard, perhaps you can clarify something for me. When it comes to being a baggage handler, member of the check-in staff or member of the cabin crew, is a Filipino, Brazilian or South African up to that standard, or can we only have white Europeans?

Robert Courts: That is absolutely right. We are interested in the people with the best talents, wherever in the world they come from.

Q131 **Richard Fuller:** Mr Moriarty, earlier the representative from Which? gave the impression, certainly to me, that the CAA was a bit of a soft touch when it comes to the airlines ignoring your warnings over potential for excessive delays and perhaps not enforcing strongly enough the responsibility for booking passengers on the first available flight. What do you say to that concern?

Richard Moriarty: I could answer that in two parts. With the powers we have, we are among the most assertive regulators in Europe for upholding consumer rights, if not the most assertive one. We have a



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track record of taking airlines to court. Simon Calder mentioned earlier a long-running case we have with Ryanair that is before the Supreme Court, having won the case at the Court of Appeal and the High Court. We have a track record of taking airlines to task when it comes to consumer rights.

Where I profoundly agree with both Which? and Simon earlier is that history has attested that our powers are weak in the modern circumstances of aviation. That is why we really welcome the Minister's consultation at the turn of this year, which is opening up a debate about how to improve our powers. They are quite cumbersome and it takes us a long time to go through court processes to get remedies. This is where we fundamentally agree with Which? and Simon earlier.

Within the powers we have, we are very much making sure that airlines do what they are supposed to do.

Q132 Richard Fuller: Just on that very specific point about responsibility for a first-available-flight rebook for passengers, are you saying that, at the moment, the CAA cannot really help very much because you need the changes? Is there anything you are practically doing now in terms of moral persuasion on the companies, if nothing else?

Richard Moriarty: We do a lot of that. We do a lot informal influence, particularly with the chief executives of the major airlines. There was a case recently with easyJet's IT failure. Initially its position was that that was extraordinary circumstances. We intervened and said, "Look, that really cannot be the case", and, to be fair to them, they changed very quickly. We do that. We issue guidance.

The other thing we do is use our social media channels to get as much information out to consumers as possible. In the last 10 days or so, our information on passenger rights has been viewed by over 500,000 consumers. That tells me that, first, it is good that we have that social media presence, but also that there is a real appetite and desire for people to know their rights. This is an area where I am keen to press the airlines harder, because they should step up to the plate and provide more information to consumers on what their rights are.

Q133 Richard Fuller: Minister, back in January you recognised there were problems in the consumer policies and within the aviation sector, and launched a consultation. You have not published those findings yet, but can you give us a general sense of where you see the direction of travel in the future in terms of consumer rights policy in the aviation sector?

Robert Courts: Yes. We will publish our response. Forgive me if I do not have the exact date, but it is not far off now; it will be some weeks away. We are still considering those. One focus of it will be ensuring that the CAA has the powers it needs, because it has the moral powers that have been referred to, but then you are looking at court proceedings, which



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are lengthy. There are some mid-range powers that would be of assistance. We are very much looking at that.

We are also looking at fundamentally making sure that this is a sector that works for consumers, so consumers are able to look at it and understand what their rights are. The information piece that Richard has talked about is also quite important. We are looking at publishing a passenger charter, for example, to make it clear to consumers, so that they can understand, on a one-stop-shop basis, what their rights are in certain circumstances. It needs to be clear and open. It is about more information, up front and very much consumer-centred.

Q134 Richard Fuller: What about automatic compensation for extensive delays?

Robert Courts: That is something we will consider. We will have to look at it and understand how it would work and the impact it would have on the sector.

Q135 Richard Fuller: When we spoke to Which?, it said that there was quite a lot of differentiation between how certain airlines are responding, Mr Moriarty. From your overview, is that right? Are some airlines currently performing significantly better with the problem set that they have than other airlines? What are the lessons that you have seen that could be learnt?

Richard Moriarty: The analysis that Simon Calder gave in the first session is one that I would share. There are some airlines that have fared better in the last few weeks than others, and there are a range of reasons behind that. On the airlines that he name-checked, I would agree with his list.

We are keeping on top of the airlines at the moment to make sure that they are paying the refunds back as quickly as they can, and certainly within the seven days. There is something the airlines have all done that is a learning from the pandemic, when frankly we were not in a great place with the airlines and we had to take action. They have learnt; they are automatically reversing the payments, so people are getting the cash back for the refund very quickly, as Simon mentioned first thing this morning.

Q136 Paul Howell: I would just like to go back to the security pass dialogue from a few minutes ago. In the last session, the operators were telling us that would be something good to happen. From what I understood from yourself a few minutes ago, Minister, it has already happened in terms of access to HMRC and things like that. Why would they not know that, if it is the case that we are at that stage?

Robert Courts: It is because, as Mr Moriarty has said, there is some conflation of the two parts of the responsibility here. There is the part that Government are responsible for. The issuing of initial security passes is the responsibility of the Cabinet Office and the CAA. There is no



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backlog. Those are proceeding and within the timescale that would be accepted.

Q137 Paul Howell: The specific dialogue, though, in the previous session was about access to HMRC records to enable visibility of continuity of employment and things like that. They were saying that would be a useful thing to happen. I understood that you were saying it is happening.

Robert Courts: They may be asking for more. What we have done is a great deal. Rather than them having to make individual employer checks, we are enabling a potential employee to access their employment history and provide it in a letter. They may be asking for more than that.

Q138 Paul Howell: They were asking for direct access.

Robert Courts: That would be very difficult for data protection reasons. It is not something that is open normally. If you think about it, it would mean that your potential employer could access your tax and employment history. There is a significant data protection issue there. I do not know that it really takes you much further than what we have already done, which is to enable you, as a potential employee, to access your employment history, clearly, quickly, simply and easily, provide it on one sheet and then give it to the potential employer.

Q139 Paul Howell: It sounds as though that there is some sort of disconnect. Maybe there is comms required to those operators to make sure that they inform the individuals that they can get this one-sheet thing. It seems as though the individuals were still looking for their own step-by-step approach.

Robert Courts: I am certainly happy to take that away.

Paul Howell: It might be worth getting better comms out.

Robert Courts: I am certainly happy to take that away.

Q140 Paul Howell: As a follow-up question to that, you said earlier that you had the open-door policy and lots of dialogue going on. Are there any other things that the Department could be doing now to find a way through some of these backlogs for the operators, or that you have seen that the operators should be picking up and doing something about?

Robert Courts: With the caveat that this is a privately run sector, not one that the Government directly control and one that has been very successful by adopting that model, there are things that the Department can do, has been doing and will continue to do to cajole, encourage, support and engage to see if there is anything else that we can do that might assist on an ongoing basis.

For example, there is a joint ministerial working group on borders, where I meet with the Security Minister and with the sector to work on the incoming side of things. That is with regards to Border Force. We have



been particularly concerned with the outgoing side in this Committee, but that is the other side of it, which has been a concern. We are seeing the fruits of some of the work that we are doing there.

There is then the strategic risks group. I alluded to it earlier. It will be chaired by me on a weekly basis. That is on top of a summer resilience group, which is also weekly and is chaired by senior officials. Those are two high-level meetings per week with the sector, where we will be going through what their plans are, the hiring position, the number and their plans for operation.

Last but by no means least is the airport partners working groups, which were again set up as a result of some engagement that I did, which is the airports themselves working with the other moving pieces. Although I, for reasons of ease of expression, talk about “the sector”, in reality it is a complicated picture. Any one airport will include the airport, ground handlers—there may well be more than one—and airlines; there are of course more than one of those. That is before you start getting into other things like transport to the airport. That is looking at the very local ecosystem around an airport to make sure that is joined up in the way that it should be.

From a convening perspective, yes, but that is not forgetting that ultimately it is the responsibility of the sector to ensure that, if it offers a flight for sale, it is able to operate it.

Q141 Paul Howell: Moving the conversation to a slightly different place, one of the things we have seen is operators, particularly airlines, which are at the front and centre of this, letting their customers down. In a marketplace, that normally means you end up with competitive change because one supplier is doing better than another and customers take choices. One of the problems with the airline industry is slots and allocations and things like this, which mean it is very difficult for airlines to get into the slots. Are there any views about the structure of the industry that are worth taking with the learnings that have come from what has happened over recent months? To open that up, I would like you to also cover the resilience of long haul versus short haul in slot allocation.

Robert Courts: Only a few weeks ago we published a document called *Flightpath to the Future*, which is the aviation strategy that Ruth will be very familiar with. It has been renamed *Flightpath to the Future* for ease of expression, but that fundamentally is the aviation strategy that is a framework document for the future. It builds on some of the consultation responses that were in *Aviation 2050*, which was the Green Paper from a few years ago now, but clearly it has been updated because the world has changed, to a certain extent at least. That covers a number of things, including regional aviation and the health and growth prospects for regional aviation, as well as things like jet zero, which is a whole other topic but nonetheless an important one. It also includes slots. We will



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look to consult on that later in the year. It is a complicated issue but we will be having a look at that too.

Q142 **Chair:** Minister, you talked about the summer resilience committee. Will all of this be fixed in time for people's summer holidays?

Robert Courts: We will do everything that we can, in conjunction with the sector, to make the experience one that is smooth and enjoyable, to get people out and about flying, because that is exactly what we all want to see as a global country.

Q143 **Chair:** Very good. My last question is to either of you, depending who wants to answer it. I still do not really understand why some airlines are fine and some are not. We have been told that British Airways in particular has a big problem on cancellations. easyJet is in second place. easyJet has a bigger problem in terms of notifying customers at the airport as opposed to in advance, but Ryanair and Jet2 seem to be fine. Do either of you have an assessment as to why BA and easyJet are in a worse position than other airlines?

Robert Courts: Without wishing to sound as if I am on the fence, it is complicated.

Q144 **Chair:** That is the fence, Minister. Do you have a view that you would like to share or not?

Robert Courts: It is complicated. I want to explain it a little bit. It is simply because you are dealing with an airline that may have different ground handlers in different places. Those ground handlers may be in a different position. Some of them may be hit by illness, for example. They all will have different impacts. I am not wishing to be evasive; perhaps that is a better word than being on the fence. I am just explaining that it is a complicated ecosystem and all of those factors will be impacting on the performance of individual airlines.

Q145 **Chair:** From a Civil Aviation Authority perspective, Mr Moriarty, if we talk about the energy sector, we expect the energy regulator to know how well run certain energy companies are in comparison to others and to let us know about concerns about how the leaders are running their business, their financial position and their compliance with the law. Presumably you do that for the airlines. Do you have any particular concerns as the regulator about British Airways and easyJet compared to, say, Ryanair or Jet2?

Richard Moriarty: There are three principal things that we look at: safety, security and consumer rights. They are the three things that we are prioritising. At the moment I would not differentiate between the airlines. They are really good on safety and security. Long may that remain. On consumer rights, compared to the start of the pandemic, I have seen them lean forward, particularly with the auto-payments of refunds, to try to get that money back to consumers as soon as possible. We will make sure that they do the right thing.



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I would certainly support the view that it is a complicated picture. Different business models entered the pandemic in different shapes and sizes. Comparing short haul to long haul is another differentiator, so it is not easy to pull out one particular argument for why some airlines are doing better than others.

Chair: Unfortunately we have timed out. That will be the end for today. Thank you to the Minister and Mr Moriarty for coming.