

Dear XXX,

Review of business systems and records maintenance

This is an important reminder of the requirements relating to business systems and records maintenance. As Accountable Person, you are requested to undertake an immediate review of these requirements and of your compliance with ATOL Standard Term 5 ('AST5', see the Official Record Series 3 'ORS3' www.caa.co.uk/ors3 pages 64 - 67).

We consider it vital that businesses have in place adequate systems to manage the operation effectively. We set out below, further context to our request but in short, we are continuing to find at failures that access to data, the quality of data and the way in which data is structured is impacting our ability to manage failures efficiently and raises concerns as to the accuracy of data that is being reported.

You are encouraged to discuss your review with your ATOL Reporting Accountant, who is responsible for verifying the figures you report to us.

As a follow-up to this request, please note we intend to conduct some compliance checks, which might involve seeking assurance from you in the form of a written self-assessment and/or we might seek to undertake a detailed review of your systems.

Context / background

We are mindful that this request might be seen as placing an additional burden on the industry at a time when it is experiencing significant trading difficulties. However, we hope that identifying and taking steps to redress any deficiencies at this time might mitigate the risks of consequential detriment to consumers and might provide greater assurance on the management information produced by your system(s) and used for financial and regulatory reporting.

Recognising the current environment and potentially limited resources available within businesses to carry out such a review, please let us know if our request poses you with a particular challenge.

Policy objectives

Broadly, the requirements set out in AST5 are designed to:

- help you comply with the ATOL Regulations (including other ATOL Standard Terms and licence conditions), providing you with assurance that the information provided to consumers and the CAA is compliant and accurate;
- enable consumers to be provided with clarity about the protection they are afforded and what they should do in the event of a failure;
- enable us to have prompt access to your business systems and records, whether as part of our ongoing assessment of your business, or in the event of (or build up to) your failure, to determine at the earliest opportunity details of ATOL protected bookings; and
- compliment other management information produced by your systems.

Issues identified by the CAA from the business and financial systems of failed ATOL holders

We continue to find that the way in which data is structured and/or captured (sometimes across different systems) makes it extremely difficult to process consumer claims promptly and exposes the

Air Travel Trust to a greater risk of paying fraudulent claims. Examples and an indication of their impact include systems;

- not distinguishing ATOL and non-ATOL protected transactions correctly, leading to incorrect documentation being issued, consumers being misled as to the protection they are afforded, delays in processing claims, inaccurate reporting to the CAA and under-/ over-payment of ATOL Protection Contributions (APC); or
- not identifying alterations to bookings (additions/deletions/changes), resulting in updated ATOL Certificates / Confirmations not being issued, consumers being misled and delays in the processing of claims because additional evidence is requested to support a claim (e.g. a consumer adds something to their booking but it is recorded separately and not linked to their original booking); or
- not easily identifying all payments received in respect of a booking (from whom and by what method), leading to a delay in processing consumer claims as the information is necessary to determine if a consumer has a claim against the Air Travel Trust or their credit card company.

Potential regulatory consequences of non-compliance

In addition to the impact of non-compliance on consumers, your business and the CAA, non-compliance with any term or condition of an ATOL is an offence under ATOL Regulation 21^[1] and anyone found guilty of such an offence is liable to a fine.

A serious breach or series of breaches is likely to be considered in the context of whether someone is fit / competent to be in control of an ATOL holder or to hold an ATOL, currently or in the future^[2], or whether the individual appointed as an Accountable Person is acceptable to the CAA.

The CAA has civil powers to take enforcement action in relation to a range of passenger rights legislation and general consumer law. An example of this might be where consumers have been affected by misleading actions, which is a breach of the Consumer Protection from Unfair Trading Regulations 2008 (CPRs). Our powers come from Part 8 of the Enterprise Act 2002, which enable us to seek undertakings from businesses, requiring them to comply with the law and if undertakings are not provided, or are breached, we can seek an Enforcement Order from the Courts.

Things to consider when undertaking the review

As Accountable Person, you are responsible for ensuring compliance with the ATOL Regulations^[3] (including any ATOL Standard Terms and licence terms) and the Civil Aviation (Contributions to the Air Travel Trust) Regulations 2007 ('The ATT Regulations').

For ease of reference, we have included a simple check-list to help you review your systems and to check how your records are maintained (Appendix A). You can also view AST1 and AST3 (please see the ORS3 www.caa.co.uk/ors3 pages 43 – 58) and view the required formats and content of ATOL Certificates (see pages 152 – 159 of the ORS3 www.caa.co.uk/ors3). These cover most but not all of the associated requirements and it's important you refer to each of the requirements within AST5, as well as all related terms.

^[1] The Civil Aviation (Air Travel Organisers' Licensing) Regulations 2012, as amended

^[2] [Criteria for an application for and grant of, or a variation to an ATOL: fitness, competence and Accountable Person](#)

^[3] The Civil Aviation (Air Travel Organisers' Licensing) Regulations 2012

In undertaking this review, you should also consider how the information is captured and how accessible it is. For example, amongst other things, you might wish to consider:

- the ways in which consumers book with you and how bookings are captured in your system(s);
- how your system(s) identifies which transactions are ATOL protected and which are not;
- how changes to bookings are captured;
- if you use different systems, for example, to generate documentation, for financial or management reporting etc., how is information linked/synced and reported on;
- how and where data is stored, how often it's backed-up;
- if you use a third-party system provider(s), is it clear in the contract you have with them that they must allow the CAA access to the system(s) at any time and free of charge (including, if you were to fail, up to 1 month after the date of failure and regardless whether the provider is owed money by you at the time of failure).

We hope the above provides a useful reminder on the requirements relating to business systems and maintaining records and the importance of ensuring compliance for the benefit of consumers and your business.

Yours sincerely,

SEE APPENDIX A CHECKLIST BELOW

APPENDIX A – ATOL holder check list

Summary of ATOL Standard Term 5 requirements	Compliant Yes/No	Additional Comments
Accessibility		
Booking data backed-up off site		
Booking data available to CAA within 3 working days without charge and in the event of failure, up to 1 month afterwards		
Capability		
Identifies correctly, ATOL-protected transactions		
Identifies correctly, Non ATOL-protected transactions		
Identifies correctly, Flight-Only sales		
Identifies correctly, Package sales – Single-contract		
Identifies correctly, Package sales – Multi-contract		
Identifies correctly, ATOL to ATOL transactions		
Produces compliant ATOL Certificates		
Produces compliant Confirmations (where applicable)		
Captures		
Date of Booking		
Date of Departure		
Gross Invoice Value		
Booking Reference		
Point of origin		
Destination point		
Elements of the Booking		
Numbers of Seats sold as ATOL to ATOL to other ATOL holders [excluding sales within the same group]		
Date of Sale (to other ATOL holder)		
Date of departure (of seat sold to other ATOL holder)		
Record unique reference number of own ATOL Certificates – whether supplied by the ATOL holder, its agents or its AB members		
Separate APC accounting record, detailing number of passengers who have booked		
Package Sales – Single-contract		
Package Sales – Multi-contract		
Flight-Only		
Amount of APC paid		
Amount of APC due to be paid		
Monitoring and Reporting		
ATOL-protected bookings: passenger numbers		
ATOL-protected departures: passenger numbers		
ATOL-protected bookings: associated gross invoice value		
ATOL-protected departures: associated gross invoice value		
Activity against ATOL limits:		
- Identifies when ATOL limit is close to being exceeded		
- Identifies individual parts of a trip and booking reference		