

**The Aviation Adjudication Scheme (The Scheme)**  
**Independent Complaint Reviewer Report**  
**For 1 April - 30 September 2023.**

## **1. Introduction**

This is my tenth report on the Scheme – which is run by CEDR (the Centre for Effective Dispute Resolution) and deals with complaints made against subscribing airlines and airports. This report covers 1 April to 30 September 2023, as required by the Civil Aviation Authority (CAA); and it will be my last as I am retiring from the Independent Complaint Reviewer role at the end of October.

## **2. My Role**

I am an independent consultant. I am not based at CEDR, nor am I part of that organisation. There are two aspects to my role.

The first is to review cases that have been escalated to me. This happens when a user of the Scheme has complained and, having been through CEDR's complaints review process, remains dissatisfied. Under my terms of reference<sup>1</sup> and the Scheme's rules<sup>2</sup> I can consider complaints about certain elements of CEDR's quality of service - such as alleged administrative errors, delays, staff rudeness or related matters.

I can also review complaints where the customer: (i) believes that in reaching an adjudication outcome relevant information was ignored and/or irrelevant information was taken into account; and/or (ii) feels that an adjudicator has made an irrational interpretation of the law. I am not expected to review an adjudicator's interpretation of the law, if that's the subject of a complaint. My role is only to establish whether CEDR's Stage 2 review thoroughly reconsidered the issue.

The second aspect of my role is to review complaints about the Scheme as a whole and produce a report every six months. This is based on my examination and analysis of all or some of the complaints handled by CEDR as I see fit, along with any cases that were escalated to me.

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<sup>1</sup> <https://www.cedr.com/wp-content/uploads/2021/10/IR-Terms-of-Reference-v2.5.pdf>

<sup>2</sup> <https://www.cedr.com/wp-content/uploads/2022/04/Aviation-Adjudication-Scheme-Rules-7th-edition.pdf>

### **3. The CEDR Aviation Adjudication Scheme Complaints Review Policy and Process**

CEDR's Complaints Review Policy and Process<sup>3</sup> explains its scope along with the two internal stages of review that take place before, if necessary, a complaint is referred to me. It provides clear information about timescales and what can be expected. In brief, if after the Stage 1 response complainants remain dissatisfied they can ask for escalation to Stage 2 of the process where a senior manager will review the complaint. If this doesn't conclude the matter, it can be referred to me for independent review.

### **4. This Report**

CEDR received 12 aviation complaints in this reporting period, all of which I examined.

Four cases were escalated to Stage 2. No cases were referred to me for a Stage 3 review.

### **5. My Findings**

#### **(a) Quantitative**

The Scheme handled 2% more applications compared to the previous six months (up from 4973 to 5081); and 36% more than the same period a year ago (when the corresponding figure was 3733).

CEDR received 12 complaints relating to the Scheme during the current reporting period, representing 0.2% of all applications – the same percentage as the previous six months.

Of the 5081 applications made to the Scheme 1389 (27%) received a final decision from an adjudicator – a three percentage point increase on the previous six months. The remaining 73% were either: outside the scope of the Scheme; still in progress; settled with the airline without the need for adjudication; or withdrawn/rejected.

The outcomes of the 1389 adjudicated claims are shown in table 1.

**Table 1: Adjudicated Claim Outcomes**

Succeeds in full	Succeeds in part	Fails
12.8%	30.0%	57.2%

<sup>3</sup> <https://www.cedr.com/wp-content/uploads/2021/10/Aviation-Complaint-review-process-oct-21.pdf>

After rounding the decimal points, table 1 shows that 43% of claims were found in favour of the customer to some extent and 57% were found wholly for the airline – exactly the same as the previous six months.

This information is purely to give some context in respect of complaints made about the Scheme; it is not my role to examine or comment on the outcomes of claims.

Table 2 gives a breakdown of complaints about the Scheme.

Table 2: Complaints about CEDR

In Scope		Partly in Scope	Out of Scope	Total
Service	Review			
0	9	0	3	12

The “service” column relates to complaints that are exclusively about CEDR’s quality of customer service (such as delays, administration errors or staff rudeness). The “review” column shows cases where aspects of the adjudication were predominant and eligible for review under the complaints process (that is, whether relevant information was ignored or irrelevant information taken account of; and whether the adjudicator made an irrational interpretation of the law).

I found one misclassification – where CEDR incorrectly categorised an out of scope complaint as in scope review. This was a record keeping matter only, which CEDR have amended.

Table 3 gives a breakdown by complaint outcome for the in scope review cases.

Table 3 In Scope Review Complaint Outcomes

Fully Upheld	Partly Upheld	Not Upheld	Total
0	3	6	9

This is consistent with the norm and similar to the previous six months, when three complaints were partly upheld and seven were not upheld.

## **(b) Qualitative**

### **(i) Timescales**

CEDR acknowledged 100% of complaints within one working day.

CEDR completed 100% of Stage 1 reviews within 30 working days. The average was 12.7 working days – roughly three working days faster than in the previous six months (and six days faster than this time a year ago). The range was one to 25 working days.

Four cases that progressed to Stage 2 were handled with an average of 6.5 working days.

This is, in my view, an excellent performance on all metrics.

### **(ii) Casework and Outcomes**

Complainants cited criteria (e)<sup>4</sup> 12 times and (f)<sup>5</sup> 6 times – although the two were sometimes conflated, and at times it was a disagreement with the adjudicator’s decision that seemed to be the issue.

Criterion (a)<sup>6</sup> and criterion (b)<sup>7</sup> both came up once; and criterion (c)<sup>8</sup> four times (but not as the predominant issue).

I identified no particular complaint themes, and CEDR’s reviews were of a high overall standard in my view – especially at Stage 2. I found no typographical errors in the replies that I examined.

CEDR offered compensation in four cases, ranging from £40.00 to £200.00. I’m content that these offers were fair and reasonable.

#### **(a) Stage 2 Reviews.**

Four cases reached Stage 2. CEDR partly upheld one complaint, and did not uphold the other three.

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<sup>4</sup> In reaching the decision in your case, the adjudicator ignored relevant information and/or took into account irrelevant information.

<sup>5</sup> In reaching the decision in your case, the adjudicator made an irrational interpretation of the law.

<sup>6</sup> Where the process followed in your case was not in line with the process as provided for in the CEDR Aviation Adjudication Scheme Rules.

<sup>7</sup> Where your case has been withdrawn from the Scheme for a reason other than those permitted by the CEDR Aviation Adjudication Scheme Rules (e.g. your case has been deemed ‘out of scope’ by CEDR when it should be ‘in scope’).

<sup>8</sup> Where the quality of service by CEDR staff has been unsatisfactory.

The partly upheld case involved a dispute about the amount of compensation awarded (based on the customer's opinion regarding the evidence submitted); and a challenge regarding how the adjudicator had treated evidence relating to a flight voucher which, among other things, had been issued in the wrong name.

CEDR's Stage 1 response gave a point by point review of the customer's complaints, highlighting that some issues hadn't been included in the original claim. CEDR confirmed that all submissions had been taken into consideration and pointed out that the adjudicator wasn't required to refer directly to every piece of evidence.

The customer felt that the Stage 1 response was inaccurate and made a number of detailed points in support of his position. He also said that CEDR made an administrative error in accepting the adjudicator's decision on his behalf, when he wanted to reject it.

CEDR's stage 2 response was comprehensive. I won't rehearse the detail here, but the customer was given a rigorous review of the adjudicator's decision which demonstrated that all relevant evidence had been taken into account. As regards the administrative error, CEDR took full responsibility and offered the customer £200.00 compensation as well as the opportunity to retrospectively reject the award if he wished. I felt this was very fair, and was pleased to see that it was accepted by the customer.

As for the complaints that CEDR did not uphold, in the first case the customer felt that the adjudicator had dismissed relevant pricing evidence relating to a flight downgrade; and that the airline hadn't provided relevant evidence on the same point. At Stage 1 CEDR found that the claimant's evidence was insufficient, and that the adjudicator had explained this as well as acknowledging that the airline's evidence wasn't fulsome. However, CEDR concluded that the adjudicator had considered the relevant evidence so didn't uphold the complaint.

The customer pressed the point, and CEDR's Stage 2 response gave what was in my view an impressively thorough analysis of the pricing information. This showed a direct relationship between the airline's evidence and the price paid by the customer, whereas the customer's evidence gave no clear breakdown of costs. The Stage 2 reviewer apologised for one minor error regarding a date, which had no impact on the outcome of the claim. CEDR did not therefore uphold the complaint.

I found the second case a bit confusing, with the customer accusing CEDR of punishing her for not accepting an earlier offer from the airline; and raising an issue about the airline selling her some luggage. CEDR's Stage 1 review established that there was nothing wrong with the adjudication and gave a good explanation to the customer.

The customer raised more or less the same matters in her escalation request and asked for more compensation. I was slightly surprised that CEDR escalated this, as I couldn't see that there was anything outstanding after Stage 1. In the event, CEDR's Stage 2 review found that the whole thing boiled down to the customer's unhappiness with the Stage 1 outcome and, rightly, did not uphold the complaint.

The final Stage 2 case concerned denial of boarding when the airline had apparently confirmed that boarding passes were all in order. The complainant felt that the adjudicator had ignored relevant evidence and placed too much weight on the airline's defence. In essence, at Stage 1 CEDR found that the customer could reasonably have been expected to notice an error on the booking information and supported the adjudication decision. CEDR also established that the adjudicator had explained why evidence submitted by the claimant was insufficient to prove his case.

The customer then tried to reframe his complaint as falling under "other matters" and felt that he was being blamed for the error on the booking information. Before escalating the case, CEDR explained that the "other matters" criterion wasn't appropriate and that the whole claim could not be revisited as the customer wanted. The customer raised further issues, so CEDR progressed it to Stage 2.

CEDR established that the points the customer raised had been addressed at Stage 1, and expanded on them. The Stage 2 review demonstrated that the evidence had been properly considered, and cleared up the point about the customer being blamed for the error (which wasn't the case; rather the adjudicator had said that it wasn't possible to state the cause of the error but that the customer should have noticed it.) So CEDR didn't uphold the complaint, which was the correct outcome in my view.

Overall, I found CEDR's Stage 2 reviews to be of a high quality – they dealt comprehensively with the issues raised, and explained things well in my view.

## (b) Stage 1 Reviews

*In scope review (nine complaints, including the four that were escalated to Stage 2).*

I've covered the four Stage 2 cases; of the remaining five that went no further than Stage 1 CEDR partly upheld two and did not uphold three.

The first partly upheld complaint was that evidence about notification of a cancelled flight (in the form of reference to a European Court of Justice case) had been ignored; and that evidence about the circumstances surrounding a rerouted flight hadn't been taken into account.

This complaint started life as a negative Trustpilot review that CEDR had picked up as part of its quality assurance activity. CEDR's response said effectively that the adjudication met their standards, but the customer wasn't happy so lodged a formal complaint.

The case was quite involved, so I won't set it out in detail. However, the Stage 1 review found that the adjudicator had failed to adequately consider evidence about a rerouted flight. The customer hadn't lost out, as he'd travelled free of charge – but CEDR concluded that there had been a shortcoming in the adjudication. CEDR also found that there hadn't been an irrational interpretation of the law – but that the adjudicator could have given a clearer explanation to the customer. For these reasons, they awarded £75.00 compensation.

The customer accepted this and said he felt that the Stage 1 reviewer (CEDR's Quality Assurance Adjudicator) had "given a better explanation". In my view this illustrates the value of a good Stage 1 review.

The second partly upheld complaint was about a significant delay in the arrival of luggage. Although the airline had compensated the customer, she felt that the adjudicator hadn't examined the claim thoroughly.

CEDR's Stage 1 review found that the adjudicator had in fact made an irrational interpretation of the law in that a second passenger on the booking also had luggage that was delayed. However, the reviewer concluded that had the law been interpreted correctly it wouldn't have made any difference as the customer had failed to provide evidence of additional losses (in relation to the second passenger). Even so, CEDR felt an error had been made; and that certain points that, whilst not affecting the outcome of the claim, had been overlooked. For these reasons, they awarded the customer £125.00 compensation.

Of the three complaints that CEDR did not uphold, the first concerned a claim that was withdrawn following an objection from the airline. The customer was unhappy about this, but CEDR established that the adjudicator's decision to uphold the objection was valid – essentially, the case had already been heard by another Alternative Dispute Resolution body abroad.

The second case ended up with CEDR's lawyers so I won't comment on it – save to say that the customer made some interesting claims in an interesting fashion.

The third case concerned lost luggage. The customer wasn't satisfied that his evidence supporting his valuation of items of clothing had been considered. CEDR's Stage 1 review was in my view impressive, and gave an excellent explanation of the legal position as well as leaving no doubt that the evidence had been considered and found to be insufficient.

*Out of scope (three complaints).*

I'm satisfied that all three complaints were correctly judged to be out of scope.

In the first case, the customer's claim hadn't yet reached its conclusion. That automatically places it outside the scope of the complaints process (which can only consider closed claims). CEDR's Stage 1 review gave a good explanation of this. I was, however, impressed that CEDR still offered the customer £40.00 compensation as they identified a delay in responding to some of the customer's messages on the on-line case management system.

The second complaint was that a colleague on the same flight as the claimant had a successful outcome, whilst the claimant did not. However, CEDR's Stage 1 review found that the airline had opted to settle the other case before it reached adjudication (which is their prerogative). There were therefore no grounds for complaint (to CEDR).

I found the third case somewhat unclear; it seemed to relate to lost luggage but there was no discernible complaint about CEDR. The Stage 1 review reached the same conclusion – that the customer simply disagreed with the adjudicator's decision.



## **7. Conclusion**

I have no observations this time round, and found an absence of any themes or causes for concern

The volume of complaints remains consistently low at 0.2% of the total applications handled by the Scheme. My review suggests that CEDR handled the few complaints they received to a very good standard.

Timescale performance was excellent with acknowledgements and Stage 1 responses at 100% within target. Stage 2 responses were very quick at 6.5 working days on average.

CEDR are, in my view, to be congratulated on this impressive set of results.

CEDR's replies to customers were in my opinion of a high standard, and I found their Stage 2 responses to be particularly comprehensive.

I found just the one classification error but am content that overall CEDR's record keeping is sufficiently accurate.

## **8. Recommendations**

I have no recommendations.

## **Acknowledgements**

I conducted my review remotely, but had the customary open and unrestricted access to the systems and records that I needed. I'm grateful to CEDR for facilitating this – and I had carte blanche in terms of conducting this audit as I saw fit.

I'm also grateful for CEDR's assistance with my queries as I conducted this review. I appreciate in particular the responses from the Head of Consumer Services and the Complaints Manager to my various enquiries. As I said earlier, I'm retiring from this role at the end of October. It has been a privilege to be of service to CEDR and its customers for the last seven years.



Chris Holland  
Independent Complaint Reviewer  
24 October 2023