

**CIVIL AVIATION AUTHORITY
MINUTES OF THE 490th BOARD MEETING HELD ON
TUESDAY 17th NOVEMBER 2015,
CAA HOUSE, LONDON**

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Present:

Dame Deirdre Hutton	Chair
Mr Andrew Haines	
Mr David Gray	
Mr Richard Jackson	
Miss Chris Jesnick	
Mr David King	
AVM Richard Knighton	
Mr Michael Medlicott	
Dr Ashley Steel	
Mr Mark Swan	
Mr Graham Ward	
Mrs Kate Staples	Secretary & General Counsel

In Attendance:

Ms Manisha Aatkar	
Mr Peter Drissell	
Mr Tim Johnson	
Mr Richard Stephenson	
Mr Peter Mee	Minute taker
Mr Will Webster	for item V
Ms Samina Khan	for item V
Mr Stephen Gifford	for item VI
Mr Robert Toal	for item VI
Mr Troy Preston	for item VII

Dr Sally Evans

for item VII

Mr Phil Roberts

for item VIII

I Apologies

1. No apologies were received.

II Previous Minutes and Matters Arising

2. The Board considered the note from Mr Ward on reducing the risk of regulatory capture. It was agreed that the CAA's Maturity of Cross Organisation Relationship (MOCOR) framework was a useful part of guarding against this concern. The Board considered that further thought should be given to the full scope of CAA's regulatory activities with partners and the risks arising. The consideration should include an assessment of how to ensure that the CAA are not subject to regulatory capture and does not find itself in a position where its independence might be called into question.

Action: Mr Johnson

III Chair's Update – by Dame Deirdre Hutton

3. The Chair informed the Board of her recent activities, including lunch with Michael Gibbons, Chair of the Regulatory Policy Committee. This was a useful meeting, with a discussion of the challenges around new regulatory requirements, including undertaking any extra work with the same amount of resource. Mr Johnson noted that the Government intends to conduct a review of all 'arms-length' bodies in 2016, with regulators the first to be reviewed.
4. The Chair attended the Performance-Based Regulation (PRB) conference, and was pleased to note that the Federal Aviation Administration (FAA) had praised the CAA's progress in this area.
5. The quarterly meeting with the Aviation Minister Robert Goodwill MP went well, with no major issues. The CAA is still looking for clearer policy guidelines from the Department for Transport with regard to noise issues.
6. The Chair and Mr Haines also attended a meeting with Gatwick Airport representatives who provided a brief on their Arrivals Review Project.

IV Chief Executive's Report - Doc 2015-134 by Andrew Haines

7. Mr Haines noted four key items of his report for discussion: the Sinai Metrojet crash; recruitment of a new Chief Operations Officer (COO); the relationship of EASA and British Airways (BA); and HMT Spending Review.
8. Mr Haines informed the Board that an offer had been made, subject to references, for a new Chief Operating Officer. An announcement was expected shortly, with a possible February 2016 starting date.
9. Mr Haines said he had had a constructive meeting with EASA Director Patrick Ky. This included consideration of Mr Ky's recent correspondence with BA.
10. With regard to the HMT Spending Review, it appeared that after meetings with the CEO and Finance & Corporate Services Director, HMT had a greater appreciation of the CAA role and position.
11. In addition, the Board noted updates in relation to RAF Northolt and ADR. Following a review of RAF Northolt, the CAA remained satisfied that it was safe for current usage. There had been developments with complaints handling and Alternative Dispute Resolution (ADR), with a number of major airlines (such as Ryanair) signing up or intending to sign up in the near future.
12. The Board noted Mr Haines' report.

V Competition Enforcement Decision Panel – Doc 2015-135 by Kate Staples

13. The Board welcomed Mr Webster and Ms Khan to the meeting. Mr Webster provided a summary of the paper, which incorporated feedback from the January 2015 Board meeting, including requests for more information on: the degree of independence of the Enforcement Decision Panel (EDP); its makeup; and how it would function. Specific scenarios had been explored relating to different outcomes from a Panel decision, such as Enforcement, Settlement or Commitment. Mr Webster noted that this proposal largely reflected the process utilised by Ofgem and the Competition Markets Authority (CMA).
14. The Board queried the nature of its relationship with the Panel and its accountability. Mr Webster noted that the Panel would be still fully responsible to the CAA Board for its work, but with case-specific decisions reached independently of the Board. The nature of the work of the Panel, occasional but significant pieces of work required irregularly (estimated 1-2 'occurrences' a year), meant that the work was ill-suited to the 'rhythm' of the Board and the

availability of Board members. The Board still retained the ability to recall the delegation of powers, or change its guidance to the Panel. Mr Webster noted that regulators were increasingly following this approach with competition law decisions.

15. The Board noted the lack of aviation experience on the Panel. However, it was agreed that the competition cases were about competition law principles, not technical understanding of the aviation industry. The CAA would provide the aviation specific input in its handling of the case and would also provide training to the Panel members on CAA work. Finally, an appeal function to the CMA remained, not just on the process (such as with a judicial review) but also the merit of the decision itself.
16. The Board **approved** the recommendation to delegate decision-making for competition enforcement to the members of the EDP.

VI Final Proposals on Modifications to NATS (En Route) PLC Licence in Respect of Governance and Ring-fencing – Doc 2015-136 by Andrew Haines

17. The Board welcomed Mr Gifford and Mr Toal to the meeting. Mr Gifford introduced the paper, noting that the Board had previously (April 2015) expressed concern about potential conflicts of interest in the governance of NERL and NATS Group. The paper proposed a strengthened governance structure, within the applicable legal constraints. The paper also proposed, for formal adoption, financial ring-fence changes first discussed in April 2015.
18. The Board agreed with the proposal requiring all the Directors of NATS, with the exception of any executive director with responsibility for NATS Services Limited (NSL), to also sit on the NERL Board. This was sensible given the respective sizes of the companies.
19. As regards the proposal that Mandatory Independent Directors (MIDs) be appointed in certain circumstances, the Board queried the responsibility for appointing the MIDs in the event of the Crown losing its right to appoint Partnership Directors and whether the 45% threshold was too high. Mr Gifford said NATS itself would have the responsibility for appointing MIDs, and that CAA retained the right to review NATS governance structure at any time, not just when the 45% threshold was reached.

20. The Board **approved** both the governance and financial proposals, and the publication of a statutory notice to modify NERL's licence to strengthen its corporate governance and financial ring-fence.

VII The Future of the CAA Medical Department and Provision of Aviation Medical Expertise and Services in the UK – Doc 2015-138 by Mark Swan

21. Mr Medicott, as a non-Executive Director of Virgin Health, excused himself from the discussion of this item.
22. The Board welcomed Dr Evans and Mr Preston to the meeting. Mr Swan introduced the paper, noting that the Board had recently (September 2015) been briefed on this subject. There had been a subsequent brief information gathering exercise and Board agreement to the cessation of the provision by the CAA of Class 1 and 3 medicals was sought, alongside guidance on the timing of any cessation.
23. Mr Swan noted that these changes should not impact on airlines, give the “pre-training” nature of class 1 medicals. While a risk existed that some pilots or air traffic controllers, may not be able to get a Class 1 or 3 medical while the Aeromedical Centre (AeMC) market develops, this could be mitigated by phasing out the CAA service and publically announcing the intention to do so, giving pilots, ATCOs and the market time to respond.
24. The Board considered the likely size of the AeMC market, which Dr Evans said already had three providers. Two of these expressed confidence in their capacity to take up medical provision. A new, third facility is intending to open in Manchester. These AeMC's have all the necessary facilities, but require the extra staff to handle the market. Hiring could be undertaken once a decision had been taken by the CAA and announced publicly.
25. The Board was interested in being briefed in the future on how the CAA will use its medical resource more effectively.

Action: Mr Swan

26. The Board provided final **approval** for the recommendations included in paper 2015/109, with provision of Class 1 and 3 medicals to be phased out over a 12 week period.

VIII Safety and Airspace Regulation Group Safety Issues Report – Doc 2015-137 by Mark Swan

27. With regard to the SARG Report item on airspeed pitot probes, Mr Swan informed the Board that the CAA Airworthiness team were engaging with EASA to speed up the introduction of the new design of pitot probes.
28. Mr Swan provided the next in a series of briefings on the Safety Performance by sectors in the UK, this month focusing on Non-UK Large Commercial Air Transport Aeroplanes in UK Airspace. The occurrence rate for Mandatory Occurrence Reports (MORs) had remained relatively flat over the past five years. Analysis allowed the CAA to identify States with which to engage so as to improve safety performance.
29. The Board queried how these States were chosen, and Mr Swan noted that it was not just driven by MOR data, but by a number of factors. He agreed there was a risk from under-reporting in some regions, which might mean the UK was not seeing the risks posed by other non-UK carriers. The Board also questioned whether non-UK operators should be required to be reporting incidents to the CAA. Mrs Staples confirmed that the Air Navigation Order 2009 only required reporting from certain operators (i.e. those regulated by the CAA), and it did not apply in these cases.
30. The Board thanked Mr Swan and the SARG Intelligence team for another good update.
31. The Board welcomed Mr Roberts to the meeting.
32. Mr Roberts was invited to provide the next SARG Capability Team Update, this time on the Airspace, Air Traffic Management & Aerodromes (AAA) unit. Mr Swan noted that AAA was the third such SARG unit to adopt the PBR approach, and so was not yet as advanced as other teams.
33. Mr Roberts noted that the AAA team undertook a broad and complex range of activity. The Q-Pulse system had only recently been rolled out, and the team was in the process of standardising functions and assessments in line with colleagues in Airworthiness and Flight Ops. It was also still early days in utilising management data, but this was already giving a good indication as to which areas to focus on. AAA was trying to grow its intelligence focus, and build a better understanding of the sector risk profile. Mr Roberts said that in

the past PBR-based activities had been undertaken 'in pockets', but it was now about trying to deliver PBR consistently across the whole group. Information-sharing was also improving between capability teams, which helped to bring people into the wider system.

34. Priorities for AAA were around regulatory information sharing and engagement, including sharing information and expertise at EASA and with the Irish Aviation Authority. In instrument design procedures, AAA were not seeing the same quality in design or maintenance and a lot of time was being spent fixing these issues and then making approvals.
35. Mr Roberts provided an overview of key safety management information, including AAA audits, aerodrome, ATM and Meteorological performance. The Board noted that the number of findings for aerodromes was rising, and Mr Roberts said that this related to a new EASA oversight regime which the unit, and aerodromes, were still working their way through.
36. The Board asked Mr Roberts about AAA's adoption of PBR methods. Mr Roberts advised that AAA were approximately a third of the way towards full PBR. He did not believe this was because of reluctance from staff to engage with the process, but primarily because the unit started later than others and had a more complex structure. While there had been 'bumps' in the implementation, these had largely been ironed out, helped by AAA learning from other teams. Overall, staff seemed to see the benefit of the new approach. Mr Swan added that while there had been some resistance to the new approach, this had been at the same level as in other teams. The bigger issue in cultural change would be the allocation of resource to risk.
37. The Board thanked Mr Roberts and was pleased that the new approach was unveiling new areas of focus for capability teams.
38. The Board noted the report.

IX Finance Report – Doc 2015-140 by Chris Jesnick

39. Miss Jesnick presented her report to the Board, which outlined the CAA's Group summary financial results for the five months to 30 September 2015. She noted the current forecast of a potential £3.5m loss for the year. This did not reflect a major structural weakness, but rather that personnel licensing and

the series income charging schemes were not bringing in expected income. The income from these schemes could be difficult to predict.

40. Additional cost controls had been implemented, including further controls on recruitment. ExCo had been examining the financial challenges facing the CAA, and would report to the Board in more detail in December.
41. As part of discussions with HMT, it was expected that the CAA would keep charges flat, but that extra funding would be needed from DfT or industry, as appropriate, for major projects such as airspace, runway capacity, unmanned aircraft, and space planes.
42. Miss Jesnick expected that the efficiencies provided by the Transformation Programme would be realised in the next two years, but thereafter, consideration should be given to rebuilding the CAA's cash reserves.
43. The Board considered the timing of cessation of the current lease for CAA House, which is December 2019, and the financial impact of this.
44. The Board queried the impact of a reduction in CAAi revenue on SARG resource. A report on the SARG-CAAi funding/resource interaction was requested for the December Board meeting.

Action: Miss Jesnick

45. The Board also requested that the future Board paper on the International Directorate included a discussion of the role of CAAi in this subject.

Action: Mr Haines

46. The Board noted the report.

XI Live issues and monthly reports

MCG *Live Issues* – Doc 2015-141 by Stephen Gifford, Will Webster and Matt Buffey

47. The Board noted the report.

PPT *Live Issues* – Doc 2015-142 by Mr Johnson

48. Mr Johnson informed the Board that he and Mr Ward had a productive conversation on the risk management framework being produced by PPT, and that he would bring this to the Board for final approval.
49. The Board requested that PPT review previous CAA regulatory decisions from May 2015, to identify any which might be assessed unfavourably by the RPC's retrospective review.

Action: Mr Johnson

50. The Board noted the report.
CPG *Live Issues* – Doc 2015-143 by Mr Jackson
51. The Board noted the report.
CCD *Live Issues* – Doc 2015-144 by Mr Stephenson
52. Mr Stephenson informed the Board that the Stakeholder Management ‘app’ was being rolled out.
53. The Board noted the report.
AvSec *Live Issues* – Doc 2015-145 by Mr Drissell
54. The Board formally acknowledged the good work of the team in respect of the recent inspection of Heathrow aviation security.
55. The Board noted the report.

XII Any other Business & Forward Planning

56. Mr Haines informed the Board that the March 2016 Board Meeting would be in Cambridge at Marshall Aerospace.

Date and Time of Next Board Meeting: 16 December 2015, at 09:30 in K5 Earhart Room, CAA House, London